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Centre and Periphery:
The Jurists of Rome, Imperial Legislation,
and Practice in the Provinces

ABSTRACTS

Panel 2E

Bruno **Acácio**

Universität Trier

Das gaianische Provinzialedikt in Gai. 17 ed. prov. D. 29.3.1

Dieser Vortrag gehört zu einem Promotionsprojekt über den Kommentar des Gaius zum Provinzialedikt. Dieses Projekt beabsichtigt Aufschlüsse darüber zu geben, was für ein Edikt (oder welche anderen Rechtsquellen) Gaius kommentiert haben könnte; um dieses Ziel zu erreichen, werden vornehmlich Stellen mit unmittelbaren Bezügen auf den Ediktstext ausgelegt und eingeordnet. Gai. 17 ed. prov. D. 29.3.1 ist ein in vielen Hinsichten aussagereiches Fragment dazu. Zunächst ist eine Teilgeminate davon in Gai. 17 ed. prov. D. 2.15.6 zu finden. Ferner werden sowohl der Magistrat (hier praetor statt des häufigeren proconsul) als auch das Edikt selbst genannt; dazu gibt es außerdem eine Ediktslaudation („ratio huius edicti manifesta est"). Schließlich kommt die potestas inscipiendi describendique auch in der längeren Quelle Ulp. 50 ad ed. D. 29.3.2 vor.

Panel 1C

Sebnem **Akipek Ocal**

TED University

Shaping the provincial law through the "cognitio extraordinaria system" and its implications in modern law – especially establishing legal pluralism

In Roman law, "cognitio extraordinaria" (cognition extra ordinem), shortened as "cognitio" can be defined as a type of a legal proceeding that emerged during the Empire. In this system, mainly a government official controlled the entire trial process, whereas in the earlier formulary system where a magistrate shaped the issues and then turned them over to a lay judge.

Cognitio can be regarded as an imperial-era judicial procedure. This procedure allowed jurists and governors to reinterpret classical law in provinces–blending local customs with Roman legal principles. This system prevailed in the post-classical period. It started during the Principate and gradually developed until it ultimately superseded the formulary system, during the Dominate.

The cognitio extraordinaria rested on the idea that the administration of justice should be provided by the Emperor, and therefore, all proceedings should be under the control of public imperial officers. Cognitio is closer to modern procedures.

The cognitio system became the legal "laboratory" where jurists like Ulpian adapted rigid ius civile to provincial realities. In this system contrast with traditional ordo iudiciorum: emperors/jurists granted governors flexibility to judge cases extra ordinem (outside formal procedure).

This cognitio system allows governors to act as a judge, Ulpian advises the governors to consider local customs while performing their duty.

This System is blending Roman uniformity with provincial pragmatism–ultimately influencing imperial citizenship under the Constitutio Antoniniana. It reveals how jurists like Ulpian not only interpreted law but also actively reshaped it at the empire's edges, leaving a legacy of legal pluralism still relevant today.

Good example of legal pluralism that can be observed in the modern era is EU Law, the national law, and the national courts. In addition, the application the cognitio system opened the way to alternative dispute resolution methods, which are used nearly in every country today.

While Roman law remained fundamentally authoritative, this imperial-era judicial procedure introduced flexibility that allowed for negotiated solutions–particularly in the provinces. The negotiated solutions today form the basis of mediation especially.

In this paper, together with the development of "cognitio extraordinaria", the influence of Ulpian will be examined. The importance of this system and its implications in modern law shall be discussed with a specific emphasis on legal pluralism and mediation.

Panel 9D

João Henrique **Aleixo**

University of Brasilia

Fideicommissum and Trust: A Comparative Analysis

This research aims to show the similarities and differences between the Roman fideicommissum and the English trust. It contends that, although there are similarities, the two are not the same. This position challenges the widespread belief that a fideicommissum can be simply translated into English as a Trust, as claimed by David Johnston in The Roman Law of Trusts. This article identifies the differences between fideicommissum and Trust to present their differences, not only in origin, but also in content.

Keywords: Fideicomissum; Trust Law; The Roman Law of Trusts; Actio Fiduciae.

Panel 2E

José Luis **Alonso**

Universität Zürich

The Governor and the Law: on the Predictability of the Law in the Roman Provinces

In discussions of legal life in the provinces, relatively little attention has been paid to the predictability of the law. Crucial to this question is a proper understanding of the Roman concept of jurisdiction and the vast discretion inherent in it. Roman Egypt, for which our documentation is richest, is at the same time a particularly interesting case, due to the structure of its court system and to the apparent absence of a jurisdictional edict. Taking the prefect of Egypt as a point of reference, this paper reconsiders the impact of such jurisdictional discretion on the province's legal pluralism, on the ways in which law was understood and applied in practice, and especially on the mechanisms—richly illustrated in the papyrological record—through which this discretion simultaneously hindered and fostered legal predictability.

Main sources: BGU I 19 = MChr. 85 (135 CE); BGU XX 2863 (after 133 CE); OGIS II 669 (68 CE), ll. 12–15; P. Oxy. II 237 (ca. 186 CE); P. Oxy. XLII 3015 (early 2nd cent.); SB XII 10967 (ca. 165–175 CE); SB XIV 12139 (2nd–3rd cent. CE)

Panel 3D

Yaiza **Araque Moreno**

University Complutense of Madrid

The sale of children at auction as a means to avoid the debtor's personal execution in post-classical Roman law

Several testimonies suggest that creditors could sell the children of debtors who failed to pay their debts. This practice was forbidden in the classical period (C. 4,10,12; C. 4,43,1). However, it seems to be frequent in the post-classical period according to the passages of Ambrose of Milan (De Nab. 5,21–25; De Tob. 8,29–32) and several papyrological sources (P.Lond. VI 1915; P.Lond. VI 1916). This paper aims not only to describe the literary and papyrological sources referring to this practice but also to analyse the legislative framework on the sale of the debtor's children at auction in the post-classical period (including the normative changes introduced by Emperor Constantine at the beginning of the 4th century AD).

Panel 5D

András Olivér **Bajáky**

Ludovika University of Public Service

Comments on the interpretation of two source sites in the Codex Theodosianus concerning the status and privileges of the agentes in rebus

In my presentation, I want to draw attention to a privilege and obligation in the regulation of the organisation of secret agents (schola agentum in rebus) in the late Roman Empire. The designation deputatus within the schola is also found in the list of offices in the Notitia Dignitatum (ND Or. XI; ND Occ. IX), which suggests that some agents were entrusted with public affairs, but were not employed at the imperial court but in the provinces. The term deputatus also refers to individuals who joined the agency from outside and had previously served in other imperial offices.

First, I will analyse Codex Theodosianus 6,27,8, which deals with the issue of a particular privilege in the selection system of the agent's organisation. In 396, according to a decree issued by the emperors Flavius Honorius and Flavius Arcadius and addressed to the magister officiorum Honius, members of the schola were promoted on the basis of a list drawn up by the magister officiorum, with the approval of the emperor. For the second class of agents (ducenarii), promotion already meant that they could hold the offices of certain officials of the territorial administration (praefectus praetorio, vicarus, praeses provinciae). In addition to taking up new posts, ducenarius agents were also granted the privilege of having their children or siblings join the agent's service after leaving the schola. In this matter, I assume that the ducenarii who were promoted in rank were likely to remain on the schola's register (matricula), and that leaving the schola merely had the legal consequence of their position among the agents being considered vacant. The family members (deputati) who filled the vacant position in the college of agents and who had previously been in the imperial service were no longer members of the organisation to which they had been elected. Although in the present case we are dealing with a legitimate version of official patronage, this privilege nevertheless raises essential questions of efficiency, especially when we consider that promotion within the official organisation of the agents was based on the principle of seniority and merit.

Inefficiencies caused by changes in the promotion and selection system, frequent abuses and excesses of authority, and the destabilisation of the military-political situation in the Western part of the Empire, may have led to a tightening of the regulation of agents. In the context of Codex Theodosianus 6,27,15, I will examine the magister officiorum's judicial activity in relation to the deputati. According to the decree of Flavius Honorius and the emperor Theodosius II from 412, the magister officiorum had to ensure that the deputies did not exceed the time limits of their mandate. Agents who exceeded their term of office had to prove the legitimacy of their prolonged absence in the magister officiorum's court. If they failed to prove their innocence, the law-breaking agents lost their official position, were struck off the register and in the case of bringing them to justice with force they had to face even heavier penalties. Provinces that harboured offending agents were fined.

Panel 7C

Anna **Barbano**

University of Genoa

The 'optimus maximusque' clause in the Roman warranty of real estate sales: new traces of coherence and pluralism through a comparison between jurisprudence and provincial practices

The prevision of the contractual clause "ut/uti optimus maximusque esset/est" has been at the centre of Roman jurists' debate on real estate sales for centuries. The opinions recorded in the Digest testify the relevance attributed to the syntagma and legal

consequences, especially based on the general duty of oportere ex fide bona. On the one hand, the cases examined in the Digest are emblematic (D. 18.1.59; D.21.2.48; D.21.2.75; D.50.16.126; D.50.16.169): they indirectly reflect the long-standing and widespread problem of whether or not to adopt this contractual clause. A comparison of this ancient jurisprudence, the principles of which are still influential in Italy, shows that the tendency of Roman jurisprudence was mainly oriented towards the sellers' point of view. On the other hand, the applications of this contractual clause seem to point out the buyers' perspective: behind these words lies a general need for prevention, which seeks to protect the expectations of buyers in order to avoid litigation. It is possible to trace this tendency not only in pre-structured models, such as the Iberian formula Baetica (FIRA III2 92), but also in real-life contracts, such as in Britannia (P12 = RIB II 2443.13) and in Dacia (FIRA III2 90). A recent find (AE 2016, 2029) brings new light about this topic.

The paper aims to analyse the text written on this hitherto unknown tabella (AE 2016, 2029) and to compare it: this contract is peculiar not only for its similarities with the others above-mentioned provincial wooden tablets and some papyri of the late antiquity from Ravenna (P. Ital. 2.35-37), but also for its uniqueness among the African tabulae, a fortiori considering that this specific legal clause was not recorded in real estate sales discovered in Africa, the tablettes Albertini.

Furthermore, the analysed text (AE 2016, 2029) confirms the common thread of Roman practice in the view of the ancient land surveyors. Indeed, the writings of the Gromatici Veteres, collected in the so-called Corpus Agrimensorum Romanorum, reveal interesting clues about the consistency of local legal practices (110.15-21 Th. = 146.15-20 L.). This use of the syntagm highlights the worldly wide request of clarity to prevent real estate disputes. Moreover, the need to write clearly with precise legal terminology and locutions finds indirect confirmation in other areas of Roman legal experience: the Latin expression examined is often cited in inscriptions and in responses relating to cases of hereditary division.

Panel 7E

Marta **Beghini**

Università degli Studi Roma Tre

Errore e voluntas defuncti nella riflessione di Ulpiano in materia di istituzione di erede e legato

Come è noto, le disposizioni mortis causa sono dichiarazioni di volontà: fonte prima di ogni disposizione è la mens testatoris. Tale disposizione è, quindi, il frutto dell'iniziativa unilaterale di un soggetto che, in ossequio al formalismo richiesto in ragione dell'atto da porre in essere, riversa nel formulario le proprie 'ultime volontà'. Cosa accade, dunque, qualora vi sia discordanza tra la dichiarazione contenuta nel testamento (istituzione di erede o legato) e la volontà del testatore, a causa dell'errata conoscenza di una circostanza di fatto che ha determinato la conclusione del negozio? S'intende indagare il rapporto tra errore e volontà nell'ambito della riflessione che il giurista Ulpiano offre nei propri commentari a Sabino. Particolare rilievo assumono infatti le seguenti testimonianze: Ulp. 5 ad Sab. D. 28.5.9 pr.; Ulp. 5 ad Sab. D. 28.5.9.1 insieme a Ulp. 5 ad Sab. D. 30.1.4 pr.; Ulp. 2 ad Sab. D. 28.1.21.1; Ulp. 5 ad Sab. 28.5.9.2-4 (rispettivamente in tema di cd. error in corpore hominis, cd. error in re/in corpore; cd. error in nomine e cd. error in quantitate). Si tratta di frammenti idonei a illustrare, nell'ambito testamentario, la rilevanza della figura dell'errore, il quale, in ragione della peculiare res oggetto del rapporto giuridico, incide 'in modo scalare' la validità della disposizione, determinando confini variabili alla normatività di un volere 'non autentico'.

Panel 8E

Yasmina Marie **Benferhat**

University of Lorraine

Federalism in Ancient Italy

Federalism in Ancient Greece is well-known and has been thoroughly studied. Federalism in ancient Italy is a complex question : did the Romans want federalism anyway ? That is why we prefer to speak of ancient Italy. A first field of research might be the very ancient times of Latin villages with the risk of mythology rather than history. Then there is the Social War with the attempt of building a federal state in front of Rome (91-89 BC). Late but not least, when Diocletian decided to part the Roman Empire into two branches, it might look like federalism for us as the choice to divide something too big into several parts which are tied together. This paper is an attempt to deal with these several aspects of federalism and see what it can tell us now at the time of European Union.

Panel 4D

Zuzanna **Benincasa**

University of Warsaw

Gaio di fronte alla realtà socioeconomica della fine del periodo repubblicano

La scoperta delle Istitutiones di Gaio, l'unica opera interamente conservata di un giurista romano del periodo classico, che permette di conoscere il diritto privato romano nella sua forma classica, originale e non "inquinata" dalle interpolazioni giustinianee, è stata una pietra miliare per la conoscenza del diritto del periodo repubblicano. Grazie a questo manuale di uno sconosciuto giurista del II secolo d.C., i romanisti poterono familiarizzare con diversi istituti del diritto romano arcaico di cui non vi è traccia in frammenti delle opere dei giuristi classici conservati nel Digesto. Il manuale di Gaio ha anche fornito una visione delle varie questioni controverse discusse dai giuristi della tarda repubblica e del primo principato. Tuttavia, le informazioni che Gaio fornisce in merito a istituti privatistici, così come le discussioni tra i giuristi della tarda repubblica o del principato, sono spesso solo frammentarie, enigmatiche o difficili da interpretare in modo inequivocabile. L'obiettivo del mio intervento sarà quello di analizzare i testi delle Institutiones di Gaio riguardanti la realtà socioeconomica della fine della repubblica in un ampio contesto letterario, prendendo a titolo di esempio la classificazione delle diverse specie animali, in termini di regole relative all'acquisizione e alla perdita della loro proprietà. L'analisi dei testi letterari, in particolare quelli degli agronomi romani e delle fonti retoriche, permette di integrare il racconto di Gaio con informazioni preziose e di verificare lo stato delle conoscenze di questo giurista sulla realtà socioeconomica della fine della repubblica.

Panel 7C

József **Benke**

University of Pécs

Venditio usufructus

Dem berühmten Pauluskommentar nach, der in D. 18, 6, 8, 2 überliefert ist, gab es zwei Arten des Nießbrauchsverkaufs, die sich grundsätzlich unterscheiden. Beim „vendere usum fructum" tritt der Eigentümer als Verkäufer auf, wenn jedoch ein „ius utendi fruendi" verkauft wurde, der Nießbraucher ließt einen Dritten sein Recht gegen ein Pauschalentgelt auszuüben. Der Letztere hatte mehrere Risikoelemente inne, die teils rechtliches, teils geschäftsbezogenes Risikomanagement erforderten. In der Quelle wird

auf den unerwarteten plötzlichen Tod des Verkäufers (Nießbrauchers) verwiesen, obwohl die zahlreichen Beendigungsgründen des Nießbrauchs für den Käufer auch ein höheres Vertragsrisiko darstellten. Darunter sind sowohl die quellenmäßigen Konkurrenzfälle zwischen Eigentümer und Nießbraucher als auch die nicht quellenmäßigen Fälle der Statusänderung des Verkäufers und der Veränderung der Sache zu erwähnen.

Panel 2B

Michael **Binder**

University of Vienna

Dolo facit, qui petit quod redditurus est: A Contribution by Paul or Plautius?

In the Digest of Justinian, the juristic rule dolo facit, qui petit quod redditurus est appears in D. 44.4.8 pr. (Paulus libro 6 ad Plautium) and D. 50.17.173.3 (Paulus libro 6 ad Plautium). It is therefore clear that the compilers derived this juristic rule from Paul's work ad Plautium. However, it remains uncertain whether Paul formulated this juristic rule himself or found it already present in the work of Plautius, on which he was writing a commentary. Since Plautius' original book has not been preserved, a definitive answer to this question is not possible. Most legal scholars attribute the juristic rule dolo facit, qui petit quod redditurus est to Paulus. If other passages from commentaries ad Plautium show a connection to the juristic rule dolo facit, qui petit quod redditurus est, it would suggest that Plautius was likely its originator. In my presentation, I want to analyse several passages from commentaries ad Plautium to determine whether they exhibit a connection to the juristic rule dolo facit, qui petit quod redditurus est, and thereby conclude whether this juristic rule can be attributed to Plautius rather than Paul.

Panel 9B

Grzegorz Jan **Blicharz**

Jagiellonian University in Kraków

Roman Law as a Gateway to the West – Henryk Kupiszewski (1927–1994)

Henryk Kupiszewski was one of the most famous Polish Romanists in the second half of the 20th century, who personally became known as the "Institution of Polish Roman Legal Scholarship". Living in communist Poland, he brought the world of the West closer to the Polish people once again. A jurist, papyrologist, and a moral philosopher who opened himself up to exploring the role of Roman law in shaping the European legal tradition, which ultimately defined his own research. Kupiszewski left his mark on the study of law by grounding the scholarship and didactics of Roman law and pointing out the directions of their development along with showing why Roman law is important for modern society. His contribution comes down to his synthesizing the vast experience of Roman law that he had gained from both his mentors and his international contacts. He was the originator of leitmotifs that have survived in the consciousness of the preponderance of Polish lawyers in general, not only among specialists in Roman law, and some of these motifs have currency among a wider audience still. At a time when the country was being politically transformed, he was also an active participant, as the newly-established Third Polish Republic's first ambassador to the Holy See. Just as Kupiszewski viewed Roman law as an opportunity to connect with the Western world, so in a similar way he saw the renewal of diplomatic relations with the Holy See as a chance for Poland to enter global politics.

Panel 4D

María José **Bravo Bosch**

University of Vigo

Los juristas al servicio del emperador

Roman jurists in the service of the emperor played a crucial role in shaping imperial law. During the Principate, legal experts such as Papinian, Ulpian, and Paul advised the emperor on the interpretation and application of laws, influencing the evolution of Roman jurisprudence. Through the ius respondendi, certain jurists were granted official authority to issue legal opinions, reinforcing centralized legal power. Their writings and decisions contributed to the development of principles that remain foundational in modern legal systems.

Panel 6C

Christer **Bruun**

University of Toronto

The spread from Rome to the provinces of legal precepts for distributing water in urban environments

"The Roman emperor showed much concern for the water supply and distribution in the city of Rome, and thanks to Julius Frontinus' De aquaeductu urbis Romae we are unusually well informed about leges, senatus consulta, imperial epistulae and mandata which regulated how Rome's cura aquarum functioned. In this contribution the focus will be on two cities in the Greek-speaking East – Beroia in the province of Macedonia (I.Beroia 41 = SEG 48, 743) and Laodikeia on the Lykos in the province of Asia (SEG 69, 936) – from which new inscriptions provide information about water administration and distribution. The shorter text, from Beroia, is incomplete and it is not certain that it has a connection to the Roman provincial administration, but the instructions for water distribution which it contains certainly resemble Frontinus' description of the rules in force in Rome. The much longer text from Laodikeia, containing a proconsular edict from the high-ranking proconsul Asiae, c. 115 CE, first published by Francesco Guizzi in 2019, is more explicit. The proconsul establishes, among other things, a protective zone along the course of the city's aqueduct, punishment for theft of water from the urban supply, and detailed instructions for the distribution.

While some of the rules in the proconsul's edict can be said to be commonplaces, i.e., practical arrangements which are likely to arise anywhere, there are certain phrases and instructions which definitely hark back to what Frontinus wrote about how imperial enactments had come to regulate the cura aquarum in Rome. There are now translations with commentary in English, French, and Italian of the edict, but this is a feature which has escaped previous scholars. This paper suggests that at the time, about a dozen years after Frontinus published his treatise De aquaeductu, we see in the province of Asia a reception of the administrative and legal arrangements in force in Rome."

Panel 3C

Pierangelo **Buongiorno**

Università di Macerata

La licenza di uccidere. Alle origini del ius gladii

"La competenza dei governatori a irrogare la pena capitale nei confronti di cives Romani si interseca da un lato con le dinamiche di concessione della cittadinanza ai provinciali e dall'altro con il mutamento dell'assetto delle province intervenuto in seguito all'avvento del

principato augusteo. Da queste circostanze scaturiscono compressioni degli strumenti di tutela dei cives definiti da ultimo dalle leges Porciae.

La relazione si concentrerà sul ruolo del principe nel delinearsi di questi processi, sino alla riflessione giurisprudenziale intervenuta fra II e III secolo dell'era corrente."

Panel 6A

Peter **Candy**

University of Cambridge

Sea Battles and Mortal Wounds: The Role of Dialectic in Julian's Interpretation of Chapter One Lex Aquilia

At the end of his celebrated essay on the interpretation of 'occidere' in chapter one of the lex Aquilia (D.9.2.51), Julian states that many solutions have been accepted by the civil law, overcoming dialectic (ratio disputandi) for the common good (utilitas communis). In reaching the decision that two attackers, who had each mortally wounded a slave in separate incidents, should both be liable for killing, what was the dialectical problem that Julian felt he needed to overcome? This contribution seeks to ground the Roman jurists' deliberations about the interpretation of 'occidere' in the framework provided by Stoic dialectic, particularly the ancient theories concerning the truth value of statements. It deals (among other things) with how the truth of statements relates to reality, rules of contradiction, and the thorny issue of when statements about the future are or become true. In this paper I re-examine the texts from the perspective of classical logic, to show that the Roman jurists, especially Julian, approached these cases through the prism of dialectic.

Panel 9E

Mariateresa **Carbone**

Università Magna Graecia di Catanzaro

Mos regionis: ambiti di applicazione e criteri di opportunità durante il Principato

Attraverso l'analisi delle fonti giuridiche nelle quali ricorre il riferimento al mos regionis si tenteranno di individuare le ragioni che, in determinati contesti, hanno portato i giuristi o la cancelleria imperiale a ritenere opportuno il rinvio alle consuetudini locali.

Panel 5B

Consuelo **Carrasco García**

Universidad Carlos III de Madrid

Técnica normativa y hermenéutica jurisprudencial. A propósito de la "Lex Aquilia"

La exposición "especular", mediando las debidas cautelas, de una ley actual (Ley 7/2023 de Protección de los derechos y el bienestar animales) con algunos de los pasajes de la "Lex Aquilia" conocidos gracias a la interpretación de los juristas romanos, nos permite percatarnos, por una parte, del sutil manejo de los recursos retóricos por parte del artífice de la norma antigua; por otra, nos aproxima a la labor del jurista como "agrimensor" de las palabras de la norma, cuyos confines amplía o restringe según las necesidades del caso.

Keynote lecture

Patricio I. **Carvajal**

Pontificia Universidad Católica de Chile

Fondamenti dell'interpretazione della legge secondo i principi generali del diritto: neque leges ita scribi possunt ut omnes casus comprehendantur

About some fragments of the Justinian Digest oh the basis of General Príncipes of Law provisions within modern codifications.

Panel 1A

Lucia Consuelo **Colella**

Università degli Studi di Napoli Federico II

Gestione fondiaria e documentazione scritta dal Nord Africa: oltre le Tablettes Albertini

"The complexity of the political events that followed the landing in Africa (429) and the seizure of Carthage (439) by Gaiseric is also accompanied, as is well known, by the difficulty of precisely framing the evolutions that characterised the production structures and the tax system in the Vandal kingdom in relation to the Roman age.

In this context, the problem of sources is of great importance. In the panorama of studies on African documentary sources, particular attention has been paid to the Albertini Tablets; more neglected, on the other hand, has been the documentation on ostracon, for reasons related to the presence of still unpublished pieces, to the editors' focus on palaeographic rather than economic-legal aspects and, last but not least, to the conciseness and state of preservation of the documents themselves, which not infrequently hinders their full comprehension.

Nevertheless, Latin evidence on ostracon from Vandal North Africa can make a contribution to our knowledge of land management practices.

This report aims to illustrate a selection of such ostraca, analysing their main problematic points."

Panel 5A

João **Costa-Neto**

University of Brasilia

Superficies solo cedit in the Roman province of Egypt

This research challenges the assumed universality of the Roman legal rule superficies solo cedit by examining its application—or lack thereof—in Roman Egypt. Drawing on papyrological evidence, we argue that local traditions permitted the separate ownership of land and buildings, encompassing divided ownership within a single structure. These practices persisted after the Roman annexation and were recognised by Roman authorities. Thus, this study considers Egypt as a case of legal pluralism within the Empire, illustrating how Roman legal traditions coexisted with local norms rather than fully replacing them.

Panel 9D

Graeme **Cunningham**

University of Glasgow

The Future of Roman Law in Scotland: Prospects Drear?

“Scots law is regarded as having an exceptional quality: a mixed-legal system, applying both civilian and common law approaches to its methodology. Scots law is said to be a “”living system of Roman law””. It has attracted international interest on that basis, drawing intrigue from foreign legal academics keen to see the operation of Roman law in a unique, uncodified environment. I would contend that their reaction must be one of disappointment. While evidence of Roman law persists throughout Scots law, its treatment by the courts is too frequently mishandling, misunderstanding, or, in the worst cases, mistreatment. Advocacy for increased interaction with Roman sources is met with derision: elitist, unmodern, giving way to obscurantism – those who advocate for Roman law’s role are in fact more often guilty of one or more of these than not. Moreover, closer ties to English law are fastened with applause: accessible, modern, bringing harmony where once there was discord. Why should we be different up here? Just because it’s raining? Lord Carloway, the outgoing Lord President of the Court of Session, says we are different because of “”legal principle””. Perhaps these nebulous concepts are why it’s raining.

Roman law in Scots law is under threat. Not from total eradication, but from a lack of insight resulting from desuetude and disconcert. In this paper, I will argue that Roman law is at the heart of Scots law, just not in the way that many people think.”

Panel 9E

Bożena **Czech-Jezierska**

The John Paul II Catholic University of Lublin

Roman Jurists as Defenders of Class Interests: A New Reading of Roman Law from a Marxist Perspective?

The role of Roman jurists and jurisprudence was viewed as “intellectual pastime of the aristocracy”, “the brilliant intuition of jurists” or “the accessibility of lawyers to all interested parties”. Most of them were undoubtedly the elite of the Eternal City and belonged to this narrow circle. Wolfgang Kunkel’s emphasises (in work “Herkunft und soziale Stellung der römischen Juristen” on Roman jurisprudence and the great jurists), that public law practice provided an excellent opportunity to gain access to city government and to make a career in politics by becoming known and respected throughout the ancient city of Rome. Kunkel’s monography was thoroughgoing attempt to apply to the particular question of the origin and social standing of the jurists. The book received a lively response from Roman law scholars after its publication, particularly among researchers from Central and Eastern Europe (e.g. Kazimierz Kolańczyk from Polish People’s Republic). It was the result of remaining a large part of the scientific community under influence of the methodology of socialist science as well as under ideologically motivated pressure. The preferred method of research and presentation of research output was historical and dialectical materialism based on Marxism. The science of class struggle was given priority. It provided that the state was essentially a tool of oppression wielded by the economically and politically dominating class against the ruled, defeated, and “oppressed” group. From this point of view, the social origin and social status of Roman jurists influenced their social activities, the functions they performed in public life and the Roman law-making process. In the light of this approach, they defended only their class interest. It stressed the need to focus particularly on the social origin of Roman jurists. The author undertakes an examination of these views and provocatively interrogates the extent to which such an approach can indeed be regarded as merely a Marxist research perspective within the Roman law studies.

Panel 4D

István **Czeti**

Eötvös Loránd University

System and Structure: The Stoic and Varronian Roots of the Structure of Gaius’s Institutiones

This paper explores the influence of the Stoic system of categories and the works of the antiquarian scholar Marcus Terentius Varro (116–27 BCE) on the systematization of Roman law as presented by the classical jurist Gaius in his Institutiones (c. 160 AD). While Gaius’s tripartite division of law—personae, res, and actiones—is frequently examined within the legal tradition itself, its broader philosophical and epistemological roots have largely remained underappreciated. This study seeks to demonstrate that Gaius’s presentation of Roman law reflects not merely a pedagogical convenience or juristic innovation but a deep engagement with both Stoic philosophy and Roman antiquarian traditions, particularly those developed by Varro. Varro’s Antiquitates rerum divinarum and Antiquitates rerum humanarum, though known to us only in fragments, were organized according to a systematic division of subject matter—structures that display notable similarities and conceptual parallels with the presentation of Roman law in Gaius’s Institutiones.

Panel 2C

Tünde Éva **Csoknya**

University of Pécs

Remuneration and Educational Policy Objectives: The Regulation of Teachers’ Salaries in Ancient Rome

The regulation of teachers’ salaries in ancient Rome demonstrated significant variation across different historical periods, educational levels, and geographical regions. This paper seeks to analyse the factors contributing to the differentiation of such remuneration.

The analysis begins with a brief historical overview of the period extending from the Late Republic to the Late Empire, followed by a discussion of the components of financial benefits and immunities granted to teachers. It examines the differences between the status of teachers (ludi magister, grammaticus, rhetor), the forms of compensation, whether in cash or in kind, and the sources of these funds, which could be imperial, municipal or private. Considerable emphasis is placed on the tensions between imperial and municipal remuneration: despite increased efforts towards centralisation, substantial local disparities persisted.

The analysis offers significant insights into this topic by utilising imperial edicts and sources from the Digest of Justinian. It provides examples of regulations concerning the financial support of grammatici and rhetores. The study further explores the strategies used to entice exceptionally talented educators who could exert substantial influence on their students to come to Rome. The state’s contributions were largely directed towards the elite, with a significant emphasis on the city of Rome.

The paper aims not only to provide a historical account of teachers’ remuneration but also to highlight how the growing role of the state ultimately served to advance the educational policy and ideological objectives of the Roman Empire.

Panel 5C

Elsemieke **Daalder**

University of Münster

Law, emperor, jurist. Some thoughts on the oratio principis of 206 CE concerning gifts between spouses

“In 206 CE, Emperor Septimius Severus (193–211 CE) and his son Caracalla (211–217 CE) delivered a speech (oratio) in the Senate, proposing a relaxation of the prohibition against gifts between spouses. Their proposal supposedly met with little opposition and was enacted into law by the Senate in the form of a senatus consultum. The Roman jurist Ulpian discusses

the speech in the 33rd book of his Commentary Ad Sabinum, even including some verbatim citations. These fragments provide valuable insight into both the content of the speech and its institutional context.

This paper will examine the surviving fragments of the speech from multiple perspectives. It will not only analyze the legal reform introduced by the emperors but will also explore how Septimius Severus used the legislative process itself to convey his vision for the future of the Empire. Furthermore, the paper will consider Ulpian's own perspective, discussing the role he and his fellow jurists played in the extension of imperial power and authority in the Severan period. In doing so, the paper aims to shed more light on the complex interplay between law, imperial authority, and legal scholarship in the early third century CE."

Keynote lecture

Wojciech **Dajczak**

Adam Mickiewicz University

Die Peripherie der römisch-rechtlichen Tradition

Die Unterscheidung zwischen Zentrum und Peripherie bei der Systematisierung oder Beschreibung der Rechtsmassen ist ein Schema, das von der naturalistischen Vorstellung ausgeht, dass die Peripherie ein geografisch vom Zentrum entfernter Ort ist. Die funktionalen Parallelen zwischen dem Bild des Rechts in Provinzen im römischen Juristenrecht und kaiserlichen Konstitutionen sowie im Neuzeit des Rechts in den Kolonien aus der Perspektive eines Jurist in Metropolie lassen sich als die Zentrum-Peripherie-Martix verallgemeinern, in der die geographische Entfernung mit besonderen Stellungsname zur Normativitäten in der Peripherie verbunden ist. Die Grundlage für die Rekonstruktion der Matrix bilden zwei unterschiedliche Bereiche der Rechtserfahrung, die jedoch ein wichtiges gemeinsames Element hatten. Die Peripherie wurde zu einem rechtlichen Einflussbereich des Zentrums nach einer Expansion, die unterschiedliche Formen annahm, aber zu einer politischen Dominanz führte. Diese Zentrum-Peripherie-Matrix wurde auf die Diskussion um die Differenzierung und Abgrenzung des Raumes der europäischen Rechtsidentität übertragen. Meine Absicht ist es, über das typische Modell der Kontroverse in diesen Diskussionen hinauszugehen. Der Vortrag wird entlang zweier Achsen gliedern. Erstens, die wesentlichen Merkmale der Polenbezüge in den Werken ausgewählter frühneuzeitlicher Juristen aus dem westlichen Teil des Kontinents. Zweitens, die Spuren der grundlegenden juristischen Methoden der europäischen Rechtstradition in der Argumentation ausgewählter polnischer Juristen dieser Zeit. Mit der Wahl eines solchen Weges soll ermittelt werden, ob und wie eine Fokussierung nicht auf dem Inhalt des Rechts, sondern auf die juristische Methode dazu beitragen kann, das aus der Zentrum-Peripherie-Matrix resultierende Vorverständnis für die Diskussion über die europäische Rechtsidentität zu überwinden.

Panel 7E

Tommaso **Dalla Massara**

University Roma Tre

Introduction

The discussion aims to deep the phenomenon of "lex contractus", in the historical and theoretical aspects, as a pillar of the European Legal Tradition.
This presentation belongs to the fully-formed panel entitled: Il volere normativo

Panel 9C

Valéria Terézia **Dančiaková**

Comenius University Bratislava

Biblical terms in Acts of the Apostles in their legal context

The Bible, as a compilation of sacred texts, shaped European culture for almost two thousand years. Its books are traditionally at the centre of theology studies. However, we should not forget that it is a valuable source for the historical context of the era during which the particular books of the biblical corpus were created, but also that it is a product of that historical context with its cultural, social, economic, cultic, and other conditions that determined its final shape, especially the reality of the Roman Empire as an authority determining lives of great number of peoples. Moreover, specific authors of specific biblical books also came from varying cultural backgrounds, at least, which influenced the choice of themes they decided to emphasize as crucial for their texts. Although the language used is rather unified (Hebrew for Old Testament, Greek for New Testament), the meaning behind specific terms can differ due to different backgrounds of the authors (Jewish, Greek, or even perhaps Roman), especially relating to the New Testament where the Greek is used in its koine form, as league of people who are not native speakers. On the other hand, this language was used in everyday interactions that were not of cultic character, but rather ordinary, we can imagine, mostly economic transactions necessary for everyday life. This contribution aims to look at various terms, especially ομολογώ and πίστις, used in Acts of the Apostles through their legal meaning, specifically in Roman law as a possible source, and subsequently, even offer a reinterpretation of passages using these terms, where it seems applicable.

Panel 7E

Carlo **De Cristofaro**

Università degli Studi di Salerno

Invitus: spunti per una anatomia giuridica della non-volontà

A partire dal lemma invitus, la relazione si propone di indagare il ruolo della non-volontà nell'esperienza giuridica romana, con particolare attenzione alla solutio obbligatoria. Lungi dall'intendere l'assenza di volontà come mero vizio o difetto dell'atto, si cercherà di mostrare come i Romani concepissero, in alcune circostanze, la non-volontà non solo come compatibile con l'efficacia giuridica dell'atto, ma talvolta come suo presupposto strutturale. In tal senso, l'analisi si concentrerà sulla possibilità che un debitore venga validamente liberato anche ignarus o invitus, alla luce di fonti significative (tra cui D. 3.5.38; D. 46.3.23; D. 46.3.91) e della riflessione dottrinale moderna, che ha teso a ridurre il fenomeno a un'eccezione tecnicamente neutralizzabile.

La relazione intende mostrare come l'ordinamento giuridico romano ammetta forme di 'negozialità imperfetta', di cui la volontà individuale (pur centrale) non costituisce un elemento indefettibile. L'invitus, lungi dal costituire una mera negazione del volere, rappresenta una figura giuridicamente significativa, capace di incidere sulla struttura del rapporto obbligatorio e sulla sua estinzione. In tal modo, l'analisi si apre a una riflessione più ampia sulla crisi contemporanea del dogma volontaristico e sulla possibilità, offerta dallo studio delle fonti romane, di ripensare alcune categorie giuridiche al di fuori del binomio volontà/patologia.

Panel 2D

Hylkje **de Jong**

Professor Legal History

Antichrese in Byzantine Law

In D. 13,7,33 and D. 20,1,11,1, antichresis is explicitly referenced, while in C. 4,32,14 and 17 it is implicitly mentioned. In Byzantine law, as handed down in the Basilica, antichresis is interpreted as an improper pledge contract, i.e., an innominate contract. This innominate contract follows the structure of do ut facias, wherein the debtor hands over (do) an item as security so that (ut) the creditor may use the fruits of that item (facias) in lieu of interest. Due to the improper nature of the pledge contract, the creditor, in case of loss of the item, possesses an actio in factum (praescriptis verbis) rather than the real action, the actio Serviana. Moreover, he has a retention right on the item. The debtor, however, has the actio pigneratica to reclaim the item upon repayment of the debt.

Panel 4E

Antonio Leo **de Petris**

The Hebrew University of Jerusalem

Integration of Legal Systems in a Papyrus from the Babatha Archive? Brief Reflections on P. Yadin 17.

This paper examines the juridical configuration of P. Yadin 17, one of the papyri from the Babatha archive. The document presents several points of interest. From a formal point of view the form adopted – that of the double document – typical of Hellenistic Egypt. From a substantial perspective the peculiar juridical configuration of the legal transaction, that appears to constitute not a depositum in a proper sense, but a depositum irregulare, which allows to use the deposited sum and thus return the equivalent. Of particular interest is the clause that imposes restitution of the sum upon prompt request, which is accompanied, in case of non-performance, by the possibility, according to the 'law of deposit', of demanding the return of double the deposited sum. An interesting document that can be usefully examined alongside P. Yadin 17 is P. Oxy. XXXIII 2677. In this latter case as well, there appears a reference to the 'law of deposit' regarding the possible failure to return the deposited sum. The meaning of this specific clause remains unknown. However, it should be observed that it has appeared only from the 1st century BCE onwards, and thus from the Roman domination of Egypt. In any case, it should be noted that P. Yadin 17 makes no reference to any interest due on the deposited sum. It cannot be excluded a priori that the requirement to return double the sum might also include any agreed interest. P. Yadin 17 provides, in any event, persuasive testimony to the synthesis of heterogeneous elements originating from different juridical traditions. Apart from the use of the stipulatio clause, one can clearly discern the expansion of contractual schemas, with an integration between the formal Roman model (via the stipulatio) and that of the Hellenistic tradition: the adoption of the double document, and the recourse to the paratheke.

Panel 6A

Gergely **Deli**

Ludovika University of Public Service

Three in One. A New Interpretation of the lex Aquilia

Despite the significant role the lex Aquilia has played in the development of law, researchers continue to wrestle with a number of open questions about it. There is an absence of definitive professional consensus on either its age, or the reasons for its creation, or indeed

its precise content. Following various earlier attempts, Wolfgang Ernst has recently set out a new procedural law-based explanation of the lex Aquilia. In my presentation, I shall identify some of the weaknesses of the theory put forward by this renowned Regius Professor and, inspired by his original insights, attempt to provide a unified explanation of the three chapters of the lex Aquilia. In doing so, I will also attempt to provide a convincing answer to the puzzling deadlines it contains (one year and thirty days) and how they were calculated.

Panel 4B

Giuseppe **Di Donato**

Edinburgh Napier University

Hermaphrodites in Ancient Rome and the Provinces: A Reality Beyond the Reach of the Law

"In Roman law, hermaphrodites were subject to markedly different legal provisions depending on the period. The earliest known rule on the matter, a law attributed to Romulus by Dionysius of Halicarnassus (II.15.2), allowed for their killing in infancy; this permission became an obligation under the Law of the Twelve Tables (XII. Tab. IV.1, as reported by Cicero, De Legibus III.8.19). Over time, however, legal treatment evolved into one of full acceptance, as seen in the writings of Paulus (III.4A.15 = D. 22.15.5.1) and Ulpian (D. 1.5.10 (Ulpianus libro primo ad Sabinum) and D. 28.2.6.2 (Ulpianus libro tertio ad Sabinum)).

Although the precise reasons for such changes remain unclear, it is evident that provincial practice did not always adhere strictly to the earliest two rules. Indeed, literary sources attest to the presence of adult hermaphrodites (see, for instance, Diodorus Siculus XXXII.11.12), suggesting that the harsh measures prescribed by early legislation were not universally enforced."

Panel 7A

Valeria **Di Nisio**

Università di Napoli Federico II

Q. Cervidio Scevola: clienti dalla periferia?

"This paper analyzes a fragment of Q. Cervidius Scaevola, recorded in D. 40.4.60 (24 dig. [Lenel 105]). The jurist represents the case of a testator who transferred some money to a man born after the manumissio of his mother. In the text there are three important points on which the author has focused the attention: a question about the status of this man, the praeiudicia that Scaevola recalls in his text, and the bilingualism (in fact the will seems to be written in Greek).

Bilingualism is typical of its clients, who seem to come from the periphery."

Panel 3C

Eva **Drommel**

Universiteit Leiden

D. 48. 7.4.1: some considerations on the concurence between private and criminal law in classical Roman law

The digest text 48.7.4.1 discusses an instance wherein a fact pattern, torturing and questioning a slave of another person without its master's consent, is sanctioned under the public criminal law 'Lex Iulia de vi privata'. The exact same fact pattern is also sanctioned under the private-law action on iniuria, the actio iniuriarum, see e.g. D. 47.10.15.43, 46, 47. This presentation analyses the text D. 48.7.4.1 and raises some some specific questions that might be answered by this specific text, and the underlying problem: how do private and criminal law concur in classical Roman Law? Can the private and criminal action co-exist, or are they exclusive?

Panel 1E

Caroline **Duret**

Université de Genève

La cause du contrat et son application dans le contexte des actions en répétition

Le fragment d'ULPIANUS (libro quarto ad edictum), D. 2.14.7.2, consacrant l'action en exécution d'une prestation découlant d'un contrat atypique, reste le fragment phare pour comprendre le sens de la causa. Nombreuses sont les propositions de la littérature secondaire pour lui accorder une définition sur la base de celui-ci. La causa est parfois qualifiée de première prestation exécutée dans un but déterminé, de fondement ou but du contrat, du contrat lui-même, ou encore de contre-prestation attendue.

Pourtant, une lecture parallèle de ce texte (parmi d'autres) avec le contexte des actions en répétition permet une compréhension plus large et concrète de la causa. Une autre interprétation possible en résulterait : la causa pourraient être comprise comme les « motifs objectifs, communs et déterminés de contracter ». Dans cette perspective, la causa serait composée d'un aspect étiologique et téléologique : elle représenterait le but recherché par les parties lors d'un rapport contractuel, le fondement du contrat ainsi que sa légitimation juridique.

Panel 4A

Václav **Dvorský**

Charles University/ KU Leuven

Temple Banking in the Roman World: Rome vs. Provinces

This paper explores the role of temples in banking activities, both in the Roman provinces and in the city of Rome itself. In the Hellenic East and other eastern provinces, temples appear to have functioned not only as secure places for depositing wealth but also as institutions that extended credit. Notable examples include the Temple in Jerusalem and the Temple of Artemis at Ephesos (Artemision). Dio Chrysostom (Discourses XXXI, 54) notes that funds were deposited in the Artemisium, and Caesar (Commentarii de Bello Civili III, 34) affirms its role as a financial institution.

In contrast, the evidence from Rome suggests a different picture. While sources such as Herodian (History of His Own Times I, 14, 2) and Juvenal (Satires XIV, 258ff.) report that Romans stored money and valuables in temples, they offer no indication that these funds were used for lending purposes. Archaeological evidence likewise offers little to suggest a broader financial function for temples in the capital.

To further illuminate these institutional distinctions, the paper will examine relevant legal sources, including passages from the Codex Iustinianus and the Digest such as C. 7.7.1.2 (Iust.), C. 4.32.19.1 (Dioc. et Max.) and D. 16.3.1.36 (Ulp. 30 ad ed.), in an effort to understand the legal status and function of temples in financial transactions across different regions of the Roman world.

Panel 8D

Marzena **Dyjakowska**

Katolicki Uniwersytet Lubelski Jana Pawła II

Roman magistrates, jurists and law in the light of treatise by Giulio Pomponio Leto

Giulio Pomponio Leto (1428–1497) was an Italian humanist, professor of eloquence in Rome, founder of Academia Romana, the members of which discussed many questions of ancient history and literature. His treatise "De Romanorum magistratibus, sacerdotiis, iurisperitis et legibus" is considered by many scholars to be a "by-product" of work related to the

publication of texts by Latin historians, commenting on the works of Virgil, and especially work on the texts of Varro. The author of the paper will try to demonstrate the influence of sources of Roman law, in particular fragments of Justinian's Digests, on the content of the treatise, which is overlooked by most authors.

Panel 8B

Nadja **El Beheiri**

Pázmány Péter Catholic University

Shared Realism: Method and Perspective in the Academic Work of Wolfgang Kunkel and Wolfgang Waldstein

At the Department of Roman Law at Pázmány Péter Catholic University, we have received the legacy of Wolfgang Waldstein. A significant part of this collection consists of the correspondence he maintained with almost all the leading scholars in the field of Roman law. In my presentation, I would like to focus in particular on the relationship between Wolfgang Waldstein and Wolfgang Kunkel.

Kunkel exerted a considerable influence on Waldstein's academic career. Similar to the case of Max Kaser, he was initially a mentor and later became a colleague. Kunkel played an important role in the selection of the topic for Waldstein's habilitation thesis.

Through his mediation, the legacy of Ernst Levy was transferred to the Department of Roman Law at the Faculty of Law of the University of Salzburg. This collection formed the core of the Institute's library. Furthermore, it was Kunkel who, in 1970, advised Waldstein to invite the then still little-known jurist János Zlinszky to the German Legal Historians' Conference.

In my presentation, I would like, on the one hand, to address these personal aspects and, on the other, to examine the substantive parallels between the two scholars. These concern, above all, Roman criminal procedure, the history of Roman law, and aspects of Roman constitutional law. What both jurists shared was a realistic approach to the ancient sources and the endeavour to extract them from the system established by Mommsen and to restore them to their historical context.

By analysing the methodological approaches of Kunkel and Waldstein, I aim to identify perspectives that may also prove fruitful for contemporary research on Roman law.

Panel 8A

János **Erdődy**

Pázmány Péter Catholic University

Nam lege Laetoria adiuvari potest. Legal Remedies for Minores from Rome to the Faiyum

The presentation aims to examine certain aspects and instances of the legal protection afforded to minores, adults under 25 years of age, in Roman law and provincial legal practice. In the development of the protection of minores, two key milestones are emphasised: lex Laetoria itself, enacted around 200 BC, which allowed for an actio poenalis against anyone who defrauded a minor, and the evolution of praetorian remedies such as exceptio and in integrum restitutio, which addressed both defensive and restitutive needs in cases of fraud and damage.

From the legal and literary primary sources, the presentation highlights various papyri from the Roman province of Faiyum, which illustrate the practical application of legal norms related to minores. One of the analysed texts is P. Oxy. XVII 2111, a fragmentary papyrus from ca. 135 AD containing three legal cases. Among these, Claudia Zosime's case stands out, as she explicitly appeals to lex Laetoria for protection. Her case involves allegations of deceit, disputed literacy, and attempts to evade contractual obligations. Scholarly interpretations vary, with Hunt identifying three distinct cases, while Youtie proposes a merger of the first two, suggesting the case revolves around a loan dispute.

Another significant source is BGU VII 1574, where lex Laetoria is not explicitly mentioned; nevertheless, the term "beneficial age" (βοηθουμένης ἡλικίας) suggests an allusion to the

same protective measures for minores. This source offers insight into provincial legal customs and the application of age-based legal protections even without formal reference to the law.

The presentation contributes to the understanding of how Roman legal protections for young adults evolved and were enacted in both central and provincial contexts. It also illustrates the interpretive challenges inherent in fragmentary texts and competing scholarly views.

Keywords:
lex Laetoria, praetorian edict, minores, actio poenalis, praetorian remedies, exceptio, in integrum restitutio, papyri, Faiyum, provincial practices

Keynote lecture

Wolfgang **Ernst**

University of Oxford

Locupletior factus es? Unjust Enrichment and Change of Position in Roman Law

Roman law did not allow donation between husband and wife. Whatever was given between spouses had to be returned to the giver. For this claim, Roman jurists discussed problems that we today classify as disenrichment, or change of position.

Panel 6B

Marco **Falcon**

Università degli Studi di Padova

Il ruolo dei mores nella repressione dei *crimina extraordinaria* a Roma e nelle province

Nelle fonti conservate nel Digesto si trovano occasionalmente menzionati i mores quale fondamento della repressione di alcuni crimina extraordinaria (delineati per la prima volta nel contesto della cognizione criminale extra ordinem).

Di particolare rilievo è un richiamo fatto da Macro (D. 47.15.3 pr.–3), che oppone i iudicia moribus inducta ai iudicia publica: una categoria, quest'ultima, di per sé controversa e di difficile definizione, della quale proprio il giurista severiano risulta essere uno dei principali interpreti. Tra i iudicia moribus inducta viene fatto rientrare il iudicium per la praevaricatio dell'advocatus, che rappresenta, secondo Ulpiano (D. 47.15.1.1), una forma impropria di praevaricatio, normalmente riferita all'accordo collusivo tra l'accusatore e l'accusato volto a beneficiare il secondo evitando o comunque alleggerendo la pena.

Testimonianza analoga sul ruolo dei mores nella repressione criminale si trova in un frammento di Ulpiano (D. 47.11.9) relativo allo scopelismo, un crimen extraordinarium esclusivamente locale portato a esempio di condotta perseguita more provinciarum.

Tale indicazione (che sembra confermata da una fonte papiracea nella quale pur tra varie lacune compare la parola moribus, verosimilmente anch'essa riferita al fondamento della persecuzione dello scopelismo) permetterebbe dunque di identificare una seconda attestazione esplicita di iudicium moribus inductum, caratterizzato da una specifica collocazione geografica nella provincia Arabia.

I due passi mostrano così una duplice prospettiva: da un lato una visione di carattere generale (Macro), dall'altro un'applicazione locale e concreta (Ulpiano). La convergenza sul ruolo dei mores suggerisce un richiamo coerente da parte dei giuristi al mos quale base della repressione di determinate figure criminali, tanto a Roma quanto nelle province.

Lo studio si propone di verificare se tale riferimento possa contribuire a una migliore comprensione delle diverse fattispecie di illeciti perseguiti extra ordinem, nonché a una più chiara definizione della nozione di iudicium publicum.

Panel 6E

Giulia **Fanesi**

University of Edinburgh

Legal Ideals, Provincial Reality: Distorted Reception and Deviations from Central Norms in Roman Sicily

Roman law, when applied to the provinces, could become a tool not of justice, but of exploitation. Indeed, in Sicily the laws coming from Rome were twisted to serve the private interests of governors and local elites, resulting in a system that deepened legal and social abuse.

Drawing on sources such as Cicero's In Verrem, Diodorus Siculus, and Cassius Dio, we aim to investigate how Roman law was manipulated in practice. A prime example is the Lex Hieronica which, inherited from King Hiero II, became under Roman administration a vehicle for extortion. Another case is the one of P. Licinius Nerva who, as governor, openly disregarded Roman senatus consultum concerning the manumissiones of the socii in 104 BCE, denying enslaved persons access to legal freedom (Prag: 2003; Pfuntner: 2015; Ferrary: 2007).

This blatant disapplication of Roman legislation illustrates how distance from the centre was felt by provincial governors as an endorsement to overrule Roman law. Even when safeguards like the Lex Acilia de repetundis (123/122 BCE) existed to prosecute governors for extortion, they were either ignored or applied too late, specifically after the governors ended their term.

The resulting breakdown in legal protection for both enslaved and free lower classes helped trigger the Servile Wars, in which enslaved people revolted against their masters and were later joined by disenfranchised freemen (δημοτικὸς ὄχλος, as defined in Diod. Sic. 34/35. 2.48) (Capozza: 2003; Morton: 2023). Other legal solutions needed to be found to provide means of class negotiation. A significant example is the shrine of the Palikoi, where fugitive slaves could negotiate better life conditions with their masters.

Through the lens of legal distortions and servile uprisings, this paper invites reflection on how Roman law, even when born from reform, could be bent to reinforce oppression, revealing the gap between Rome's legal ideals and their provincial reality.

Panel 8A

Maurilio **Felici**

Università Lumsa

Aspetti del ruolo dei liberti nelle realtà provinciali dell'impero

Così come nella capitale dell'impero, fonti e letteratura relativi alla vita dei liberti, considerata in specie sotto il profilo giuridico della sua dimensione in provincia, offrono un panorama che conferma quanto cruciale fosse il loro ruolo all'interno del sistema economico romano.

D'altro canto, la consistenza della documentazione epigrafica (selezionata in aree diverse per posizione geografica) fornisce uno spaccato sociale che certifica l'esistenza di differenti livelli di rango dei liberti, legata ai rapporti di dipendenza con i patroni e alle competenze maturate nello svolgimento delle mansioni servili.

Panel 9E

Birgit **Forgo-Feldner**

Universität Wien

Im Namen des Kaisers. Das Zitiergesetz und die entscheidende Figur dahinter

Im Jahr 426 n. Chr. wurde in Ravenna das sogenannte Zitiergesetz erlassen: ein grundlegender Akt im Namen der Kaiser Theodosius II und Valentinian III, der die Schriften der fünf Juristen Papinian, Ulpian, Paulus, Modestin und Gaius als Autoritäten für die Norminterpretation und Rechtsanwendung festlegte.

Der Vortrag beschäftigt sich mit der hinter diesem Akt stehenden Person, die die Regierung für den noch sehr jungen weströmischen Kaiser Valentinian III ausübte und weitere Gesetze veranlasste.

Panel 1B

Doris **Forster**

Université de Genève

Die Entmystifizierung der actio de pauperie

Inhaltliches Anliegen des Vortrags ist es, die actio de pauperie von archaischen Ideen der Tierhaftung abzugrenzen. Ziel der klassischen römischen Tierhaftung war die Kompensation des Opfers bei gleichzeitiger Beschränkung der Haftung für den verschuldensunabhängig haftenden Tiereigentümer auf den Wert des Tieres. Eine Bestrafung des Tieres, dessen schädigendes Handeln von „Tierdämonen“ gesteuert sei, wie es bisher teilweise in der Forschung vertreten wurde, ist in dieser Form als These nur schwer haltbar. Vielmehr handelt es sich bei der actio de pauperie um ein auf Kompensation ausgerichtetes Haftungsinstrument, das den Eigentümer als Profiteur des Einsatzes des Tieres zur Verantwortung heranzieht, da er für das Restrisiko der tierischen Wildheit einzustehen hat. Die ihm zustehende Wahl zwischen Schadensersatzzahlung und Hingabe des Tieres an das Opfer (noxae deditio) ist dabei kein Relikt archaischer Tierprozesse. Vielmehr wird dadurch die Haftung auf den Wert des Tieres begrenzt. Diese Deutung erlaubt ein kohärentes Verständnis der actio de pauperie wie sie uns in den Digesten im Titel 9.1 überliefert ist. Bisherige vorherrschende Interpretationen im Sinne des „Tiers als Täter“ führten dazu, dass die actio de pauperie vielfach missverstanden wurde und ihr aufgrund der vermeintlichen Brüche in der Haftungslogik kaum wissenschaftliche Aufmerksamkeit zukam. Zudem wird gezeigt, dass die Idee einer verschuldensunabhängigen Haftung des Profiteurs einer Sache für den durch die Sache verursachten Schaden durchaus ein klassisches Haftungsmodell darstellen kann, dass auch für aktuelle Haftungsfragen in gewissem Umfang Vorbildcharakter haben könnte.

Panel 3B

András **Földi**

Eötvös Loránd University Law School

Über die Wurzeln des modernen Verantwortungsgedankens in den Konstitutionen der späten Kaiserzeit

The modern concept of responsibility emerged in the second half of the 18th century in the Italian, English and French languages (responsabilita', responsibility, responsabilité). The Roman jurists did not use the verb “respondere” in the sense ‘responsibility’, however, describing various relations of responsibility or liability, they preferred to use other verbs, e.g. praestare and tenetur. Notwithstanding in some constitutions of the Late Roman Empire the verb “respondere” occurs in a meaning which is not very far from the idea of responsibility.

Panel 7A

Margarita **Fuenteseca**

University of Vigo

Das Erbrecht der Frauen in Rom: ein Interpretationsvorschlag

It is known that women in Rome could not be heres suus since the earliest ius civile. A new interpretation of the patrimonial status of women in the Roman family is proposed here. The starting point is the situation of the man, who was always the heres, both in testamentary succession and in intestate succession. He had a ius successionis, and so did his heirs, by successio in locum et ius.

And the woman, either as filiafamilias or as uxor in manu, received her part of the family patrimony, which, in turn, was reserved for her heirs. This was the case in the proprio iure family, but not in the communi iure family, where Gaius had already pointed out the unequal situation of women, but of nieces and paternal aunts.

Panel 3E

Yair **Furstenberg**

Hebrew University of Jerusalem

Entangled Legalities: The Vision of „Local Law under Rome” Project

During the first three centuries CE, local legal communities in the Eastern Provinces of the Roman Empire, from Greece, through Asia Minor, Syria, Palestine, Arabia and Egypt, negotiated in multiple ways their own local traditions and institutions with the options provided by the Imperial judicial administration. Within this overwhelming variety, scholars have sought to make sense of the complex findings, in attempt to identify some degree of structure and coherence in the administration of the legal sphere across the provinces. The ERC funded project, Local Law under Rome, seeks to develop an integrated view of this field through a multi-dimensional comparative analysis of local materials.

In addition to developing a digital platform for synoptically studying and comparing the multiple overlapping legal orders in the provinces, this systematic comparison of concurrent legal cultures allows us to identify common trends among different communities as they address Roman policy alongside distinct forms of response. In this lecture I will demonstrate the value of this comparative approach for characterizing local legal cultures. Thus, for example, an inscription reflecting a change in a city’s court procedure, acquires new meaning once we acknowledge it to be a recurring phenomenon among non-Roman groups; at the same time, the insistence to maintain a local practice gains a particular cultural weight against the backdrop of opposite choices in parallel cases among other groups. This taxonomy allows us to map out differing forms of legal hybridity, depending on the legal field, the nature of legal sources and legal arenas. This paper will suggest preliminary dimensions for modelling the complex evidence for local law under Rome.

This presentation belongs to the fully-formed panel entitled:
Navigating Local and Roman Laws: A View from the Near Eastern Provinces
Abstract of Panel:
Current scholarship reveals the importance of the material from the Roman Near East for assessing the ways local legal cultures adjusted to the imposition of the Roman judicial administration during the first centuries CE. In light of the continuing uncertainties concerning the distinctiveness of the materials from Egypt, and the scarcity of substantial evidence from the Greek cities concerning daily legal conduct, the importance of the multifaceted source material from Syria, Palestine and Arabia becomes decisive. This region provides complex models of legal hybridity and adaptation to a larger extent than known from Egypt, and a range of responses both in documentary sources, such as in the Babatha archive, as well as in local juristic materials developed by the Rabbis. Significantly, this is the only available comprehensive corpus of local law created under Roman rule and completely shaped by this environment. Taken together, these groups of sources from a relatively small region provide a valuable insight into the nature of local exposure, responses and adaptation to the Roman legal environment. The lectures in this session will demonstrate this variety, in light of comparable cases in other provinces.

Panel 8A

Lorenzo **Gagliardi**

Università degli studi di Milano

Quelques réflexions sur la liberté de domicile et de circulation dans le monde romain

La communication propose une réflexion sur la nature et les limites juridiques de la liberté de domicile et de circulation dans le monde romain. À partir de l’analyse de sources littéraires, juridiques et épigraphiques, on s’attache à reconstituer les conditions dans lesquelles les

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citoyens romains ont progressivement accédé à la possibilité de choisir librement leur lieu de résidence, dans un cadre où le domicilium devient, au fil du temps, une manifestation de l'autonomie. Cette liberté n'est cependant ni absolue ni universelle : elle demeure étroitement subordonnée au statut personnel et aux exigences de l'ordre public. La seconde partie de la communication est consacrée à la situation des non-citoyens, dont la mobilité était régulée par des normes parfois inclusives, parfois répressives. À travers l'étude des expulsions, des déportations et des pratiques exceptionnelles adoptées en contexte de crise, on met en lumière les ressorts d'une politique de gestion différenciée des déplacements humains.

Panel 7E

Sara **Galeotti**

Università Roma Tre

Errore e sinallagma contrattuale nella riflessione di Ulpiano sulla compravendita

Movendo da D. 2.14.1.3, in particolare da una lettura 'obiettiva' della nozione di conventio, intesa quale risultante dell'unità di volontà e percezione delle parti contrattuali, ci si propone di indagare, a partire dalla riflessione di Ulpiano, il nesso tra consenso, errore e sinallagma contrattuale nella compravendita, con l'obiettivo di mettere in luce come la scientia iuris romana più matura abbia affrontato le tensioni tra volontà soggettiva e assetto oggettivo del rapporto obbligatorio. In particolare, l'ipotesi da verificare è se esista una topica di 'contesti negoziali' tale da rendere 'tolerabilis' – e opponibile alla controparte – l'error di una delle parti del contratto, e in quale misura la dimensione 'fisica' del percepito-voluto incida sulla dimensione giuridica del contratto.

Investigando sulla giustapposizione tra l'ambito soggettivo del volere e la sua estrinsecazione oggettiva, la relazione vorrebbe analizzare le misure rimediali volte a contemperare l'esigenza di valorizzare la volontà dell'errante con la tutela dell'affidamento dei terzi destinatari della dichiarazione nei casi di dissensus sulla res oggetto della compravendita (Ulp. D. 18.1.9 pr.; Ulp. D. 18.1.9.1; Ulp. D. 18.1.11), ovvero di errore legato alla 'apparenza' della merx (l'error in corpore, l'error in materia, l'error in qualitate).

Panel 7B

Richard **Gamauf**

Universität Wien

Der Prozess um Agonis. Anmerkungen zu einer Prozessrede Ciceros (divinatio in Q. Caecilium 55-57)

Der Text gilt u.a. als Zeugnis für Halbfreiheit, Tempelprostitution, provinzialen Formularprozess oder die vindicatio in servitutem. Ziel des Vortrages ist die Prüfung, welche belastbaren Informationen der Text überhaupt bietet.

Panel 5B

Máté **Giovannini**

Károli Gáspár University of the Reformed Church in Hungary

Τοῦ τινὰ ἐπιτροπικὸν αἰτεῖν – Procuratorem te facio: Agent authorization in a provincial context

The issue of agency has long held an important place in Roman law research. Since a general concept of agency did not develop in ancient Rome, the modern surrogates of representation form a complex set of various legal institutions. One of the most interesting – and at the same time most controversial – aspects of the topic is the problematic nature of the

procurator's activity. The procurator was an indispensable figure in Roman society, who carried out numerous factual and legal acts on behalf of the represented party. The widespread use of the term (in both legal and non-legal contexts) reveals a highly diverse picture in the sources regarding the social status of the procurator, his representative authority, and the scope of his management. The following source-focused paper addresses each of the aforementioned questions. The subject of the investigation is a comparative analysis of a fragment from the Digest and a writing tablet. The chosen methodology provides an opportunity to study the relationship between theory and practice. The texts, on the one hand, reflect a legal scholar's concept developed considering a specific case, and on the other hand, offer insight into the everyday transactions of the Romans.

Panel 9D

Carmen **Gómez-Buendia**

Universitat Rovira i Virgili

Il fideicommissum tra prassi giuridica e intervento normativo

Il fideicommissum, inizialmente sviluppatosi come strumento extragiuridico basato sulla fides, divenne ben presto una delle forme più flessibili di disposizione testamentaria nel diritto romano. La sua ampia applicazione nella prassi giuridica romana rese necessaria una progressiva regolamentazione normativa, culminata con il Senatus Consultum Trebellianum e il Senatus Consultum Pegasianum. Questo contributo analizza l'evoluzione del fideicommissum, da modello informale fondato sulla fides a istituto pienamente riconosciuto e tutelato nell'ordinamento giuridico romano, soffermandosi sul dialogo tra prassi e intervento normativo, e sul bilanciamento tra la volontà del de cuius, le aspettative degli eredi e la tutela degli interessi dei creditori. Nel quadro di questa evoluzione storica e giuridica del fideicommissum, il contributo si sofferma anche sull'analisi della sua recezione nella tradizione giuridica catalana. In particolare, si esaminerà come la tradizione romanistica abbia influenzato l'elaborazione di figure giuridiche analoghe nell'ordinamento catalano, dove il "fideïcomís" ha conosciuto una notevole continuità e adattamento fino all'età contemporanea.

Panel 8C

Albert **Gómez-Jordán**

Universitat Rovira i Virgili

La tutela del legatario nel diritto romano: una prospettiva casistica sulla cautio legatorum [seu fideicommissorum] servandorum causa

La cautio legatorum servandorum causa –o cautio legatorum nomine– costituiva un meccanismo extragiudiziale proprio della giurisdizione pretoria, mediante il quale l'erede si obbligava nei confronti del legatario a garantire l'adempimento del lascito disposto dal testatore. Nel caso in cui l'erede si rifiutasse di prestare la stipulatio, il legatario poteva richiedere al pretore l'immissione nel possesso dei beni ereditari (missio in possessionem legatorum servandorum causa).

L'obiettivo di questo contributo è analizzare la casistica relativa a tale stipulatio praetoria nel diritto romano classico, per la quale il Digesto presenta una rubrica specifica (D. 36.3). Per comprendere adeguatamente il fondamento e la natura di questa cautio sarà necessario anche esaminare le definizioni che possono essere contenute -e talvolta persino implicite- nella sudetta rubrica e analizzare l'eventualità di ricorrere a una possibile cautio fideicommissorum servandorum causa in epoca classica.

Panel 1D

Sylvie **Grulichová**

Charles University

Res Mancipi: Imperially Abolished Tradition

Res mancipi represents one of the well-known and traditionally inherent part of the Roman law. That applies, even though there are only few ancient sources of knowledge about it. Paradoxically, the most important one is the constitution of emperor Justinian from the year 531 thanks to which res mancipi fell into disuse. The lack of the sources led in the following centuries of the reception of the Roman law to many speculation and conditional conclusion what exactly res mancipi meant in order to create some general definition of it. This contribution is dealing with the acknowledgement of the ancient classification of things as res mancipi and res nec mancipi according to the sources. The base of it forms an analysis of the constitution of emperor Justinian as well as Institutes of Gai, Fragmenta vaticani and Ulpiani and even some non-legal works, especially the ones of Cicero. The contribution reminds also some findings about cognition of res mancipi in the time of the medieval reception of the Roman law. The aim is to point out on the limitation of the cognition of res mancipi.

Panel 5C

Kamil **Gryczyński**

Jagiellonian University

Augustus' Legislation on Marriage and Children: A Case Study in Ancient Pronatalist Policy

I am of the view that the study of Roman law may be enriched through consideration of its relevance to modern legal orders, or even its capacity to address broader societal challenges. The focus of this presentation, which concerns Augustan laws on family relations, will not be on source analysis, but rather on the efficacy of Augustus' legislation and on the possible applicability of certain tenets thereof to prospective reforms aimed at tackling contemporary demographic problems.

In the contemporary era, a considerable number of European and Asian countries are confronted with substantial demographic challenges. According to various scholars (e.g. Pierre Chaunu), contemporary societies face not the threat of overpopulation, but rather that of underpopulation. An increasing number of governments are implementing pronatalist measures in response to declining fertility rates.

This paper argues that the study of Roman law can offer significant insights into the contemporary context of modern demographic policymaking. The lex Iulia et Papia, initiated by Augustus, may be regarded as an exemplar of a state-orchestrated demographic policy. In particular, the sanctions imposed on orbi – that is, married individuals without offspring – lend support to the thesis that one of Augustus' principal objectives was to address the demographic challenges of Roman society – perhaps alongside other aims, such as curbing moral decline or ensuring a sufficient supply of soldiers for the Roman army. A number of scholars have previously posed questions regarding the efficacy of Augustus' demographic policies, though fewer have examined their potential relevance to contemporary societal issues. Both areas will be addressed during the presentation.

It could be argued that the current underpopulation predicament may necessitate the implementation of extensive state-led policies. Nevertheless, the crux of the present inquiry pertains to the insights that Roman law may offer with respect to the efficacy and appropriateness of such measures.

Panel 9E

Jakob Johann **Gstach**

University of Vienna

Justinian and the Shield of Heracles. The imagery of the Digest's Epigram

In the Codex Florentinus, the Digest is accompanied by a six-verse Greek poem: the Digest's epigram. It is marked as something special already by its graphical design and beautiful script, as it is much more carefully executed than the Digest's other paratexts.

The epigram praises Justinian and Tribonian, compares the Digest to the shield of Heracles, and asserts a claim to world dominance. While it may initially appear to be a rather simple panegyric poem, closer inspection reveals it to be a sophisticated piece of art that draws associative links between classical mythology and Christianity in a typically Byzantine manner, creating a vivid poetic imagery through subtle literary allusions.

This paper analyses this notable poem, which has previously received little scholarly attention, and considers how it situates the Digest within the cultural context of 6th century Byzantium.

Panel 5B

Gábor **Hamza**

Ludovika University of Public Service / Eötvös Loránd University

Reflections on the Contractual Agency with regard to the Legal Practice in Egypt, Province of the Imperium Romanum

The paper analyzes the various case-types of the agency from point of view of their legal effects. On the basis of the analysis of various case-types the author concludes that the theory of the conceptual exclusion of the direct form of the agency cannot be accepted neither in classical Roman law nor in the legal practice in Egypt. This construction is adopted in the field of the formal contracts as witnessed by the acceptilatio through the procurator. The direct form of the agency is exluded in the contracts where there is an obligation of the dominus negotii. But even in these acts the idea of the representation of interests of the person represented by his/her agent plays a role. In the paper the origin of the actio exercitoria and of the actio institoria and their connection with the construction of the agency is analyzed. The author deals also with the question of the legal characteristic features of the praepositio.

With regard to the praepositio in the actiones adiecticiae qualitatis the construction of the agency plays no role. By means of the concretisation of the will in the praepositio, this comes through the praepositio procuratoris into existence. The paper analyzes also the characteristics of the development of the procuratio and its influence on the agency.

In the paper is analyzed both the social and legal background of the acceptance of the direct form of the agency in the classical Roman law. The change of the social status of the procurator leads to the dominance of the "organic thought" /Organgedanke in German/ based predominantly on connections of hierarchic nature. Caused by the ongoing descending social status of the procurator disappears the social background of the agency. The connection between dominus and procurator based upon the mandatum is the starting point of the free agency-relations owing to the vanishing connections of fiducial character.

Keywords: Roman law, ancient Greek law, comparative method, jurisprudence, interpretatio multiplex, Greek civilization

Panel 3D

Adrian **Häusler**

University of Warsaw

Distraint and forfeiture in Rome and in Alexandria: a plurality of private debt execution practices

One of the most striking features of Roman administration in Egypt is the immediate adoption – with unexpected transformations – of the Ptolemaic procedure for debt execution, and its apparent stability until at least the end of the 3rd century BCE. This continuity might appear surprising given the almost constitutional relevance of legal enforcement. Indeed, the Romans had developed a long-lasting and notoriously harsh legal tradition of forced execution mechanisms (ductio, bonorum venditio) long before Octavian's conquest, and innovated with the judicial distraint in trials under the cognitio jurisdiction. Even more remarkable is the fact that the Ptolemaic execution system relied on a complex exchange of written instruments, which only became more burdensome with the Roman centralisation of authority at the prefect's place of residence, Alexandria. Drawing on both legal literature and documentary evidence, this paper examines the plurality of execution practices across the Roman Empire during the first three centuries BCE, with a focus on Roman Egypt.

Panel 6E

Tomoyoshi **Hayashi**

Osaka University

Greek writing clients of Q. Cervidius Scaevola

Q. Cervidius Scaevola, as is well known, is an influential jurist who worked under the reign of Marcus Aurelius. Many fragments in the Justinian's Digesta are attributed to him and they quote a considerable number of texts in Greek in the legal questions and answers under his name. In my presentation, I would like to choose some out of such Greek texts and try to reconstruct his responding activity and his relationship with Greek writing clients, hopefully shaping a concrete and life-sized image of a professional jurist and his Greek writing clients. D. 17,1,60,4 (Scaevola, responsa 1) will be treated as one of such fragments. I will rely on Lenel for the reconstruction of his works and will be guided by the works of Kunkel, Talamanca etc. in my preparation.

Panel 6D

Mirza **Hebib**

University of Sarajevo

„Lectus" nel diritto medievale di Dubrovnik

According to Dubrovnik law, the spouses had no right to mutual succession. A spouse who was not designated as successor by the last will or contract on the disposition of property post mortem, was materially secured by law through the institute of lectus. Meaning 'bed' in the literal sense, in various parts of the eastern Adriatic and the Mediterranean in general, including Dubrovnik, this legal term designated the right of the widow or widower to enjoy the property of the spouse on condition of remaining widowed.

The analysis of the provisions of the Statute of Dubrovnik and the available legal practice have shown how lectus in Dubrovnik law substantially and functionally virtually overlaps with the concept of ususfructus in Roman law. However, considering that its implementation was confined exclusively to the material rights of the widow or widower, as well as the double condition accompanying it (besides Roman salva rerum substantia, an obligation to preserve widowhood), it is clear that lectus is not mere ususfructus, but the right sui generis.

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→ Comparative analysis has drawn attention to the potential aspects of the shaping of such an institute. The results show that lectus developed independently in different communities permeated by the Roman legal tradition. Given that none of the considered solutions (Byzantine law, Venetian law, Langobard law, etc.) fully correspond to that of Dubrovnik and other eastAdriatic cities from Zadar to Budva, as for now it is not possible to establish whether the concept of succesion between the spouses with the obligation of remaining widowed was the result of the original Byzantine reception or early reception from the West. Hence, the process of legal reception and the shaping of this institute is not entirely clear.

Panel 7B

Andreas **Herrmann**

Eberhard-Karls-Universität Tübingen

Frühklassische Rechtspflege in den Fabeln des Phaedrus

Der Fabeldichter Phaedrus offenbart sprachlich ebenso wie inhaltlich eine Nähe zur Jurisprudenz. In zahlreichen seiner Fabeln begegnen Vorgänge des Rechtslebens, und nicht selten bedient er sich juristisch konnotierter Wendungen. Dennoch findet Phaedrus' Werk in der rechtshistorischen Literatur selten Beachtung. Dabei handelt es sich um ein sinnfälliges Beispiel für Recht in der Literatur. Wir haben ein literarisches Zeugnis darüber vor uns, wie Juristen und das Recht in frühklassischer Zeit wahrgenommen wurden.

Panel 8B

Viola **Heutger**

University of Antwerp

The Kaser–Waldstein Letters and the Evolution of Roman Law Education

The correspondence between Wolfgang Waldstein and Max Kaser, preserved in Waldstein's estate and currently archived at Pázmány Péter Catholic University in Budapest, offers a unique insight into the history of legal scholarship in the 20th century. The letters document not only the close collaboration between two prominent Roman law scholars but also the intergenerational support between established and younger academics. Particularly notable is Kaser's letter dated March 7, 1970, in which he emphasizes the importance of teaching Roman law in a way that simultaneously prepares students for the study of contemporary civil law. He advocates for a stronger connection with the respective national civil law system as a guiding principle of instruction. This contribution explores how such impulses arising from personal exchange contributed to the development of methodology and didactics in Roman law–and what lessons can be drawn for present-day legal education.

Panel 2A

Mariko **Igimi**

Kyushu University

Navigators of Pompeii. An interpretation attempt of D.19,2,13 pr. from an urban design perspective.

Anyone who visits the archeological site of Pompeii would notice how high the steppingstones are, and how deep the wheel tracks are. We can find many streets and corners too narrow for carriages to pass from both sides, and observe that even main streets are suddenly straitened by water fountains. Hence, in order to drive into the city of Pompeii, a runner who leads the carriage through one-way streets, gaps between the steppingstones, and constantly changing street conditions, was necessary. Besides, due to the steep slopes within the city, a coachman was also needed for controlling the speed to avoid accidents.

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Taking this circumstance into consideration, D.19,2,13 pr. could perhaps be interpreted as a decision based on a case where a coachman rented a runner from a local slave owner. Such interpretation might lead us to a consistent understanding of the Ulpian's context quoted in D.19,2,11 pr. to 13,2.

Panel 7A

Lisa **Isola**

University of Vienna

Strafklauseln in Testamenten

Das Phänomen von "Strafklauseln" ist insbesondere aus griechischen Grabinschriften bekannt. Es begegnet jedoch auch in lateinischen Testamenten. Ihre Ausgestaltungen und juristischen Konsequenzen sollen im Vortrag beleuchtet werden.

Panel 3E

Noémie **Issan-Benchimol**

Hebrew University of Jerusalem

Is Legal Anthropology Useful for Legal History? The Case of Oaths by the Tyché and the Salus of Caesar in provincial context

The anthropologist Alain Testart proposed, in a brief 1991 article, to do away with the distinction between "oath by executor" and "oath by guarantor." This distinction, central to most research on oaths, separates oaths that invoke the authority that punishes perjury from those that name the person or entity on whom the punishment will fall in the event of perjury (the swearer themselves, but also sometimes their relatives, children, or property). According to Testart, while this distinction may have heuristic value, it obscures a deeper unity shared by all types of oaths. Whether one swears by loved ones or by sacred entities, the symbolic mechanism remains the same: a pre-existing bond is invoked to reinforce the new bond created by the oath. The difference between curse and guarantee only appears retrospectively, depending on the hierarchical position of the entity invoked: loved ones suffer the curse, while sacred entities turn it back upon the perjurer. He writes: "Everything shows that the swearer ties their fate to that of the one they invoke, the one represented by that upon which they swear, and that this one, whether a child or a god, is likewise implicated in the oath."

Drawing on Testart's theory, I propose that this structural unity-ambiguity of the oath is not merely a modern analytical artifact, but was in fact operative in ancient practices. This anthropological perspective might help us understand how the inherent double-entendre of some oath formulas or switching from one formula to another, could be strategically employed by religious minorities under the Roman Empire, particularly in contexts of coerced loyalty and legal pluralism, to articulate forms of play, phatic loyalty or even symbolic subversion vis-à-vis imperial authority. Oaths sworn by the Tyché or the salus of Caesar, rather than being interpreted univocally as referring to some divine aspect of the king, thus appear as spaces of multiple interpretations, where juratory practices could simultaneously express allegiance while preserving, through the very equivocality of the ritual gesture, a form of distance or resistance.

Following a survey of the main scholarly interpretations of the oath by the Tyché of Caesar, particularly as attested in the Babatha archive, we find a range of positions, from apologetic denial to contextual reassessment. Emmanuel Friedheim sees in the oath of Babatha further evidence of polytheistic tendencies among certain Jewish populations, which he links to epigraphic and archaeological traces of pagan practice in Judea and Arabia, as well as the famously syncretic synagogue of Dura-Europos. He also reads certain rabbinic rulings on images as pragmatic concessions to an inescapable cultural environment. Hannah Cotton, for her part, situates these oaths within a broader process of legal and political integration. She

challenges traditional readings she sees as overly determined by later halakhic or rabbinic frameworks, which obscure the lived complexities of figures like Babatha. Conversely, Ranon Katzoff adopts a more conservative, rabbinizing stance, downplaying the significance of the oath. He argues that the document reflects a standard administrative phrase recorded by a census official, with no real evidence that the oath was actually pronounced. More recently, Kimberly Czajkowski have proposed to move beyond rigid dichotomies, between resistance and collaboration, paganism and monotheism, by situating Babatha within a continuum of Jewish responses to Roman imperial structures. This continuum reflects the diversity and strategic adaptability of Jewish individuals navigating plural legal and symbolic orders. To this rich and sometimes polarized debate, I propose adding an anthropological dimension, drawing particularly on Alain Testart's theory. Testart offers a conceptual tool that may help resolve some of the tensions in current interpretations.

Panel 1A

Éva **Jakab**

Károli Gáspár University of the Reformed Church in Hungary

Die Geschäfte der Herennia Terentia

Unter den tabulae aus Herculaneum ist ein Dokument über eine bonorum possessio enthalten (TH2 A3). Der Prätor Camerinus Antistius Vetus übergab den Besitz des Nachlasses einer gewissen Herennia Tertia dem abwesenden Zenon, der seinen Anspruch als testamentarischer Erbe (secundum tabulas testamenti) auf das prätorische Edikt stützte (Z. 4-6). Es liegt nahe, dass er im Testament der Herennia Tertia als Erbe eingesetzt wurde. Der Rechtsakt des Prätors (Einweisung in den Nachlass) wurde von dem Petenten M. Caecilius Primus veranlasst, der in Abwesenheit des Erben als procurator agierte. Über die außerprozessuale Handlung des Prätors wurde eine testatio als Beweisurkunde (Triptychon) aufgesetzt, die auf pagina 4 von neun signatores gezeichnet ist.

Mein Beitrag beschäftigt sich mit hauptsächlich mit einem anderen Dokument, das noch zu Lebzeiten der Herennia Tertia entstand. In einer tabula (TH2 D12) tritt sie als Verkäuferin der Früchte ihres Gutes (fundi Cadiani) in Nola auf. Der Verkauf fand im Oktober statt, aber der Kaufpreis (1.800 Sesterzen) war erst am 1. März des nächsten Jahres fällig. Giuseppe Camodeca (Tabulae Herculanenses, Roma 2017, 295ff.) stellt darauf ab, dass Trauben am Stock verkauft wurden; der Käufer sollte erst zahlen, wenn er den neuen Wein (vinum doliare) im März verkaufen konnte.

In meinem Beitrag möchte ich der Frage nachgehen, ob diese Deutung zwingend ist.

Panel 5E

K.P.S. (Renske) **Janssen**

Leiden University

A Legal Mirror. Anchoring Scholarly Innovation in Roman Legal History

Despite its long, influential history within both classical and legal studies, scholarship on Roman law and administration has been far from static. As demonstrated by the theme of this year's SIHDA International Conference, interest in the legal views and experiences of those outside of the scope of the traditional (social and geographical) elite has steadily grown in recent years, and new scholarly approaches have developed as a result. These developments in Roman legal history are reflective of wider disciplinary shifts within scholarship on the ancient world more generally, where new, innovative approaches that centre traditionally marginalised groups (including women, enslaved people and inhabitants of the 'periphery') have increasingly gained traction.

The ways in which legal historians have responded to and incorporated such approaches, however, is particularly worthy of consideration. Roman law continues to hold a special place

within scholarship on the ancient world, and has been described by some as 'Rome's greatest legacy to the modern world' (Watson, The Law of the ancient Romans, 1970: 3). The field was an important shared reference point within the foundational legal debates in continental Europe of the late eighteenth and nineteenth centuries, as well as various projects of empire building. In the twentieth century, furthermore, the legacy of Roman law paradoxically proved a useful tool for both the conservative agendas of various totalitarian regimes, and the move for increased European collaboration (Tuori and Björklund, Roman Law and the Idea of Europe, 2019). Inspiration, however, has historically gone both ways: just like the Roman past served as an important frame of reference for the (historical) present, that same present has, in turn, shaped our understanding of the Roman past – to the point that it has been argued that "in the Rome of scholarship, it is sometimes difficult to discern the difference between ancient Romans and dead Germans" (Tuori, 'Legal Pluralism and the Roman Empires', 2007: 39).

The idea that there is some connection between analyses of the Roman legal landscape and perceptions of law in scholars' own time is thus well-established. However, the ways in which legal historians have introduced and defended the aforementioned recent developments in the field, which emphasise the diversity of the Roman world, remain deserving of further study. In this paper, I will explore how the conceptual framework of Anchoring Innovation (Sluiter, 'Anchoring Innovation. A Classical Research Agenda, 2017) may be used to better understand not just these new approaches in particular, but the workings of the field in general. I will suggest that innovations in scholarship, as in other areas of life, can only gain widespread acceptance by being 'anchored' in what is already established and familiar, and that this premise allows us to explore how scholars working in the field relate both to the discipline's past, and to other contemporary domains – both within and outside of academia. This approach, I will argue, furthermore provides a valuable opportunity for self-reflection about the functioning of our field, and its relationship to wider society.

Panel 1C

Başak **Karaman**

University of Medipol

Il contributo di Schwarz alla formazione e all'insegnamento del diritto romano in Turchia

Fino alla riforma universitaria del 1933, i corsi di diritto romano in Turchia erano tenuti da Mişon Ventura, uno dei pochi docenti che conservarono la loro posizione dopo l'istituzione della nuova Università di Istanbul. In seguito, il diritto romano fu insegnato anche da Andreas B. Schwarz e Richard Honig, giunti a Istanbul a causa delle persecuzioni naziste. Schwarz assunse la cattedra di diritto romano presso la Facoltà di Giurisprudenza e contribuì in modo decisivo all'istituzionalizzazione della disciplina. Oltre al diritto romano, insegnò anche diritto civile e comparato, adottando un approccio volto a rintracciare le istituzioni romane nel diritto turco moderno. Il suo corso si articolava in tre parti: introduzione storica, parte generale (persone, atti, azioni) e trattazione delle obbligazioni e, in misura minore, dei diritti reali. Il primo volume del suo manuale uscì nel 1942; l'ultima edizione nel 1963. Dopo la sua morte improvvisa, Giovanni Pugliese continuò l'insegnamento a Istanbul per due semestri nel 1954 e nel 1955. Il contributo di Schwarz resta fondamentale nella formazione giuridica turca e nella ricezione moderna del diritto romano.

Panel 8D

Tomislav **Karlović**

University of Zagreb

Isidore of Seville, the Second Council of Seville (619 AD) and the Procedure in Liber iudiciorum (654 AD)

The object of this paper is to analyse the reflections and the preservation of Roman procedural law in the Visigothic Kingdom of Toledo. More specifically, it aims to provide more insight into the procedural rules present in the cases contained in the canons of the Second

Council of Seville (619 AD), as they are in general terms implied in Stocking's "Bishops, Councils and Consensus in the Visigothic kingdom". Additionally, as she stated that "[o]nce described into canon, these details and descriptions provided a divinely endorsed conciliar exemplar that could serve the educational and judicial need of succeeding generations", the inquiry is made into the possible influences of these examples and rules in canon law, as well as in the making of the Liber iudiciorum (654 AD) and the law in general in the Kingdom of Toledo. The role of Isidore of Seville at the Second Council of Seville and the Council itself in the wider picture of the law on "periphery" is also taken into consideration having in mind the 100-year anniversary of the concourse by L'institut de droit canonique on the topic "Saint Isidore de Seville. Son rôle dans l'histoire du droit canonique".

Panel 3B

Philipp **Klausberger**

Universität Innsbruck

Etwas hat überlebt? Spuren der Noxalhaftung in der Deutschen Rechtsgeschichte.

Die Noxalhaftung des Tiereigentümers aus der actio de pauperie ist eine alte Rechtsfigur, der Spätklassiker Ulpian führt sie auf die Zwölftafeln zurück. Die Noxalität lässt dabei den Gedanken durchschimmern, dass das schädigende Tier zwar selbst als unmittelbarer Täter angesehen, mit dem Eigentümer aber eine andere Person haftbar gemacht wird. In der römischen Klassik deuten die Juristen diese haftungsbegründende Funktion in eine haftungsbegrenzende Funktion um: Da es dem Eigentümer freisteht, das Tier an Schadens statt auszuliefern, wird dieser gegen seinen Willen nicht über den Wert des Tiers hinaus belastet. Daneben tritt eine unbeschränkte Gefährdungshaftung für die Halter gefährlicher Tiere aus dem edictum de feris. Der Vortrag geht der Frage nach, inwieweit sich Parallelen zu den Haftungsfiguren des Römischen Rechts in der Deutschen Rechtsgeschichte ausfindig machen lassen.

Panel 8E

Maria Elina **Koulouri**

University of Hamburg

Unintentional Homicide in Ancient Greek Thought: Exploring the Spectrum from Accident to Negligence in Plato's Laws

This paper examines the treatment of unintentional homicide in ancient Greek law, focusing on Plato's Laws, and investigates whether a distinction analogous to the modern legal differentiation between negligent and accidental homicide existed. While earlier Greek sources, such as Draco's homicide law and Antiphon's Tetralogies, address unintentional killing, they lack a clearly defined concept of negligence. Examining Plato's Laws, this paper argues that while Plato does not explicitly differentiate between negligence and accident in the modern sense, his philosophical framework and legal prescriptions reveal a nuanced and sophisticated approach to unintentional harm.

Central to Plato's approach is a curative rather than purely retributive philosophy. The hekōn/akōn (voluntary/involuntary) distinction, deeply rooted in Athenian legal tradition, is reinterpreted as a diagnostic tool to identify the source of the harm within the individual's soul. This paper demonstrates this nuanced approach through an analysis of Plato's treatment of "special cases" – unintentional killings in socially valued activities like athletics and medicine. These cases, addressed primarily through purification rituals rather than standard punishments, reveal an implicit recognition of differing levels of culpability and a pragmatic concern for balancing legal consequences with the encouragement of beneficial practices.

Further evidence is provided by Plato's concept of ameléia (neglect), which reveals a recognition of negligence as a failure to fulfill specific, legally defined duties, particularly within familial and civic contexts. Finally, the brief but significant mention of tychē (chance)

acknowledges the existence of events beyond human control, further refining Plato's understanding of unintentional harm and separating it from actions stemming from a disordered soul or neglect. Ultimately, Plato's Laws provide a foundational, yet often underappreciated, contribution to the legal and philosophical understanding of unintentional homicide, emphasizing a curative approach that prioritizes the well-being of both the individual and the polis, and anticipating aspects of modern legal thinking by moving beyond a simple dichotomy of intention to consider the underlying causes and appropriate responses to unintentional harm.

Panel 9C

Joanna **Kulawiak-Cyrankowska**

University of Lodz

Not just Roman Success Stories: Satirical Insight into Socio-Legal Tensions Between Center and Periphery

This presentation examines how societal pluralism created tensions that became especially acute in the legal sphere, using satirical narratives from Roman poets – primarily Horace, Juvenal, and Martial – to reveal the complex reality of center-periphery dynamics. These poets expose how the supposedly seamless hierarchy of legal status and social deference often diverged sharply from lived experience. Through their observational humor and social criticism, they illuminate how interactions between diverse populations and Roman legal structures generated friction: social and legal victories against Romans, the personal costs of administrative service, and the challenges of cultural integration. These stories bring to light the everyday consequences of an order that struggled to balance unity with diversity. By centering on these literary accounts, this paper reveals how formal authority could diverge from practical respect, how legal rights clashed with lived realities, and how status expectations often collapsed in practice. Rather than offering Roman success stories, these satirical testimonies provide a ground-level view of legal and societal pluralism – exposing its contradictions, its costs, and the human experiences it produced.

Panel 4A

Ana Aurelia **Kumin**

Universität Wien

Si tibi mandavero ut Titio credas" – Frühe Etappen des Kreditmandats im römischen Recht

Das Kreditmandat – in der romanistischen Literatur überwiegend als mandatum qualificatum oder als mandatum pecuniae credendae bekannt – ist ein Rechtsinstitut des antiken römischen Rechts, bei dem der Auftraggeber mit dem Auftragnehmer vereinbart, dass der Auftragnehmer einer bestimmten Person im eigenen Namen und auf eigene Rechnung einen Kredit gewährt.

Zwar ist die Entstehung des Kreditmandats historisch schwer zu belegen, der Gebrauch des Kreditmandats scheint hingegen in den überlieferten Quellen der römischen Juristen häufig auf. Hinsichtlich der Rechtsnatur des Kreditmandats bestehen jedoch Widersprüche: Gaius schildert in seinen Institutionen (Gai. 3.156) die Meinungsdifferenzen zwischen dem spätrepublikanischen Juristen Servius Sulpicius Rufus und dem im ersten Jahrhundert n. Chr. lebenden Masurius Sabinus. Insbesondere behandelt die Kontroverse der römischen Juristen die Frage, ob das Kreditmandat als ein mandatum tua gratia betrachtet werden muss, oder diese besondere Form des Mandats den Anforderungen eines gültigen Auftrags genügt. Auch in späteren Ausführungen der römischen Juristen ist diese Problematik öfters zu erkennen [siehe zB D. 17.1.48 (Cels. 7 dig.),

D. 17.1.2 (Gai. 2 cott.) D. 17.1.6.5 (Ulp. 31 ad ed.)].

Diese Diskussion erlaubt die Betrachtung des Kreditmandats auch im Lichte des römischen Freundschaftsbandes der amicitia, das in der gesellschaftlichen Ordnung der römischen

Nobilität eine wichtige Säule darstellt.

Keywords: mandatum qualificatum, mandatum pecuniae credendae, Kreditauftrag, Kreditmandat, amicitia

Panel 4C

Katharina **Kurzböck**

Paris Lodron Universität Salzburg

„Civitas ex lege?" – Ciceros Argumentation zum Bürgerrecht in Pro Archia im Spiegel römischer Rechtswirklichkeit

Die römische Staatsbürgerschaft stellte ein zentrales Element der rechtlichen, politischen und sozialen Ordnung im antiken Rom dar. Das römische Bürgerrecht war durch die exklusive Stellung des civis Romanus geprägt, dessen rechtlicher und sozialer Status bewusst von Nichtbürgern abgegrenzt war. Im Verlauf der Republik und der frühen Kaiserzeit gewannen jedoch Integrationsprozesse zunehmend an Bedeutung, wodurch sich die *civitas Romana* in einem Spannungsfeld zwischen Inklusion und Exklusion etablierte. Die Rede *Pro Archia poeta* von Marcus Tullius Cicero thematisiert die Rechtmäßigkeit des Bürgerrechtserwerbs durch den Dichter Archias. Im Fokus steht die Frage, inwiefern Ciceros Argumentation mit der damaligen Rechtswirklichkeit übereinstimmt. Ziel der Untersuchung ist die Analyse der juristischen und rhetorischen Strategien mit denen Cicero seine Verteidigung gestaltet.

Panel 3A

Kacper **Łądkowski**

Jagiellonian University

Emphyteusis in the Theodosian Code

The history of Roman emphyteusis is typically traced back to the issuance of an imperial constitution by Emperor Zeno around 480 AD. This constitution standardized the legal framework of emphyteusis and more clearly distinguished it from other legal institutions. Zeno did not create a new right, but rather systematized a practice that had been in use for centuries, particularly in the provinces. His constitution had a considerable impact on property law in the Eastern part of the Empire and, later—through Justinian's codification—on the concept of divided ownership in the Middle Ages.

This does not imply, however, that rights analogous to emphyteusis were absent from the Western part of the Empire. One of the sources attesting to their existence is the Theodosian Code, which includes several constitutions concerning this legal institution. It is worthwhile to examine these provisions in order to understand the point of departure for the development of emphyteusis-like rights in both the Eastern and Western Roman worlds.

From these texts, it becomes evident that emphyteusis at the time was closely tied to public authority and confronted various challenges, such as the insolvency of leaseholders and attempts by officials to usurp land. It was clearly distinguished from ordinary lease agreements and approached the legal character of ownership, though it did not constitute full ownership per se.

It appears that, in the Western practice, emphyteutic rights—partly due to processes of vulgarization of law—became a factual foundation for the emergence of feudal divided ownership, for which Eastern emphyteusis would later provide a theoretical model.

Panel 3B

Patricio **Lazo**

Pontificia Universidad Católica de Valparaiso

Razonamiento causal-hipotético y responsabilidad contractual

The work focuses on certain cases of liability for which Roman jurisprudence offers a solution, based on establishing, from a certain fact, a hypothesis about how other facts would have unfolded. This, which our scholars have examined closely in relation to the Aquilian law, can also be observed in other areas, such as contractual liability. In these areas, the general rule is that causal-hypothetical reasoning forms the basis for the exemption from liability of one of the parties.

Panel 8C

Rita **Lengyel**

Károli Gáspár University of the Reformed Church in Hungary

Collegium dissolutum sit: Settling a dispute concerning a fideicommissum to an association

The Digest preserves a noteworthy case of Cervidius Scaevola in which a testator entrusts a fideicommissum of two thousand solidi to be transferred to a collegium – an institution that, by the time of execution of the will, no longer exists. The jurist's opinion goes beyond the technical details of fideicommissary transfers: it offers insight into the Roman legal thought concerning the impossibility of performance and the interpretation of last wills. This contribution tries to explain the legal problem Scaev. D. 32, 38, 6 in a broader historical context, tracing especially the permanently changing role of associations and other religious institutions in the Roman Empire. It also deals with the problem of how jurists like Scaevola sought to enforce the will of the deceased, even in the case of a dissolved beneficiary. Scaevola's reasoning sheds light on the interaction between legal formalism, social change, and principles of equity in Roman private law.

Panel 8B

Franciszek **Longchamps de Bérier**

Jagiellonian University

Provincial Marxism-Leninism of a Roman Law Professor – Borys Łapicki (1889–1974)

Borys Łapicki (1889–1974) received his entire education in tsarist Russia. He witnessed the revolution, learning about the consequences of communist upheaval for the state and for individuals. It remains an undisputed fact that after World War II Łapicki worked in Poland unhindered. In those dark years, Polish patriots were commonly sentenced to death or long-term imprisonment by a justice system which was under the dominion of Stalin-era law–which was, in effect, nothing but statutory lawlessness. By contrast, Łapicki at that time was writing passionately in the language of Marxism-Leninism, that is, Stalinism. Marxist methodology was not a mere ornament in Łapicki's academic works. He described and analyzed the ancient world and Roman law with expertise in order to then evaluate them from Marxist positions. All of this without superficiality, because he saw in Marxism great scientific potential for understanding the world in order to make it better. Thus, the new post-war communist order was certainly moving in the direction Łapicki himself wanted to go in, or one might say that, at the very least, not only was he not bothered by this order, in all its various better and worse guises, but rather he pinned his hopes on it–hopes which were sincere and had originated in the interwar period.

"I was concerned with finding in Roman law elements that would justify lectures of Roman law in the present day." In taking this approach Łapicki must have been much concerned with Leon Petrażycki's critical stance against Roman law studies, his interpretation of the subject as "establishing innumerable theses of microscopic scientific importance," and as putting forward and fiercely defending "microscopic verbalistic hypotheses." Łapicki, on the contrary, looked at Roman law not through a microscope, but through a telescope. That is why to him Roman law always seemed very close, his own, personal concern.

Aequitas and concordia–as originating in ancient Rome and considered incompatible with Christian ethics–may have seemed to Łapicki neutral ideals to propose for the new communist age he was living in, as universal categories and principles of interpretation that respect the freedom of the individual, his rights and needs arising from and satisfied in cooperation with others.

Panel 9C

Francesco Maria **Lucrezi**

University of Salerno

Legality, Anarchy and Law in Iudaea – 4 BCE – 6 AD

In the decade between the death of king Herod (4 B.C.E.) and the institution of the Roman province of Iudaea (6 A.D.), the sources (above all Flavius Iosephus) describe a lack of authority and legality. This period for some aspects is similar to the troubled times between the death of Jehoshua and the foundation of the monarchy, described un the book of Judges. It seems to have been a time of confusion and anarchy. But probably the tale of Iosephus is conditioned by propaganda purposes. We know that in that period there has been an intensive creation and processing of some institutes of Jewish law, later collected (but only partially) in the Mishnah.

Panel 6C

David **Magalhães**

University of Coimbra

El agua como recurso natural protegido por el „interdictum quod vi aut clam". Un ejemplo de derecho medioambiental romano

Siendo seguro para nosotros que el "interdictum quod vi aut clam" sólo podía ejercerse contra la contaminación del agua corriente, y siendo ésta la que emana de un curso de agua, se concluye que estaba presente un propósito medioambiental, con la protección de los recursos hídricos y la lucha contra su contaminación. El agua de lluvia almacenada puede ser de gran interés para la persona que instaló la cisterna, pero es indiferente como bien ambiental.

Los marcos actuales son los de una política ambiental regida exclusivamente por instrumentos juspublicísticos y un marcado contraste entre el medio ambiente y el hombre. No obstante, la experiencia jurídica romana, en particular el "interdictum quod vi aut clam", demuestra que es posible otro entorno – aunque haya sido olvidado por la noche de los tempos – en que la defensa de derechos subjetivos privados conducía materialmente a la protección del medio ambiente. Al ser protegido lo que está en la esfera de los individuos, es posible proteger lo que es de beneficio general. Esta es una realidad que los pretores entendieron y, por tanto, dotaron a los particulares de medios de reacción rápida en defensa de la "salubritas". Toda la sociedad se beneficiava de la pureza de las aguas que formaban parte del "ager" privado.

Por consiguiente, la naturaleza fue protegida en el sentido moderno de medio ambiente y ecosistema y lo fue incluso alrededor de una idea de armonía complementaria entre los derechos individuales y el bien común.

Panel 3E

Orit **Malka**

The Hebrew University of Jerusalem

The Disguised Will: Legal Bypasses and Formulaic Parallels in Roman Law and Rabbinic Halakha

Scholarship has long assumed a fundamental divergence between Roman and rabbinic law regarding testamentary succession: Roman law is said to have recognized the will early on, while rabbinic law is thought to have categorically rejected it. This paper challenges that dichotomy. It demonstrates that in both traditions, post-mortem property transfers were enabled through legal fictions that bypassed the formal rules of inheritance. In Roman law, testamentary succession emerged through the mancipatio, a transaction formally framed as a sale but functionally designed to distribute property according to the testator's wishes. Similarly, rabbinic halakha developed the mechanism of the mattena mehamat mitah ("gift in contemplation of death")—a transfer that, though couched in the language of gifting, operated in every respect like a will.

Beyond this structural resemblance, the paper also identifies striking textual parallels between rabbinic gift formulae and Roman legatio formulae which were regularly included in the mancipatory will, preserved by Gaius. These similarities suggest not merely analogous legal reasoning, but a direct channel of contact between two legal cultures. Taken together, the comparison reveals a much closer affinity between Roman and rabbinic approaches to testamentary succession than has been previously recognized, both in legal structure and in textual form.

Panel 9A

Salvatore **Marino**

University of Naples Federico II

Sine leges res publica non est res publica. Diritto vandalo, cioè Romano, e il nomos degli Hasdingi

A differenza di altri regni romano-barbarici, il regno nordafricano dei Vandali e degli Alani non ha lasciato alcuna traccia né di legislazione etnica, né di legislazione per la parte romana della popolazione. Eppure, proprio re Hunirico ha prodotto una dettagliata normativa in materia religiosa, equivalente, per intensità e complessità, a quella imperiale. Numerosi elementi fanno pensare a che i Vandali abbiano applicato il diritto romano, come il resto delle numerosa popolazione del loro regno; ma vi sono anche pochi e controversi indizi dell'esistenza di qualche tradizione giuridica non scritta, non necessariamente molto antica, ma viva, alla corte dei re Hasdingi. L'analisi e la discussione di questi aspetti, anche in prospettiva storiografica, permette una riflessione sul rapporto tra diritto scritto e diritto non scritto, nonché sulla etnogenesi e identità delle gentes tardo-antiche.

Panel 4E

Quintijn **Mauer**

Universiteit Leiden

Dig. 8.3.37 (Paul. 3 Resp.): a non-issue in Roman Law?

In his legal practice the second/third century AD Roman jurist Julius Paulus was confronted with cases from the Roman East. This is known from four replies included in the Justinianic Digest. In these replies Paulus gave answers to legal questions based on a document written in Greek. The case in Dig. 8.3.37 is such a case, in which a legal question is based on a Greek document. This Greek document is a contract in the form of a letter, in which the writer donates the use of water to his brother. The use of Greek in the contract (among other

→

→ things) indicates that the contracting parties were from a Hellenistic legal context. Did this have an effect on the reply by the Roman jurist Paul?

Panel 6D

Jean **Meiring**

The Johannesburg Society of Advocates

Roman law in Africa

In this paper, I undertake a panoptic view of the sediments of Roman law on the African continent, with a special focus on Southern Africa. I will trace the patterns of reception and the fate of those sediments in a post-colonial world. I will demonstrate a recession of the earlier dominance of Roman law in certain parts of the continent, yet also the tenacity of various doctrinal residues.

Panel 2D

Mattia **Milani**

Università degli Studi di Foggia

Fiducia e prassi giuridica provinciale

La fiducia è stata nel tempo oggetto di vaste attenzioni da parte della dottrina, che vi ha dedicato studi a carattere monografico e ricerche concernenti alcuni suoi specifici profili. Mai però è stata approfondita la questione della sua eventuale diffusione nelle aree periferiche del mondo romano. Eppure, le tracce dell'impiego della fiducia al di fuori di Roma e del contesto italico non mancano. La Tabula Baetica e le Tabulae Irnitanae, ad esempio, confermano che nella provincia iberica della Baetica non era infrequente, nel I secolo d.C., fare ricorso a operazioni di fiducia, cui era senz'altro riconosciuta protezione giurisdizionale, anche a livello municipale. Del pari, l'iscrizione nordafricana di Henchir Mettich (116-117 d.C.), nella quale compare in due occasioni il termine fiducia, fa sorgere il sospetto che anche in quelle aree la fiducia, o altre operazioni negoziali ad essa assimilabili, potessero trovare un certo margine di impiego e una qualche forma di tutela. Un sospetto che si potrebbe estendere ai territori egiziani, vista la presenza di diverse testimonianze papiracee (come P. Mich. VII, n. 453) che si servono di un lessico riconducibile all'ambito fiduciario. Scopo dell'intervento è proprio quello di interrogarsi sulla diffusione della fiducia a livello provinciale e sulle forme di tutela assicurate dall'ordinamento per le pretese nascenti da operazioni aventi natura fiduciaria. Sarà anche l'occasione per verificare se l'accesso alla fiducia fosse riservato ai soli cittadini romani, come sovente sostenuto dagli interpreti, visto il necessario impiego di negozi che erano prerogativa di tali soggetti, quali la mancipatio e la in iure cessio, per costituirla.

Panel 5D

Milan **Milutin**

University of Novi Sad

On the Jurisdiction of Provincial Governors in the Digest of Justinian

A comparison of the legal bases for the emergence of the powers of the governor of a Roman province in different periods, provides a picture of the relationship between the central government and the governor, and thus the conflict of interests of different categories of Roman society and the changes in the constitutional framework in which this occurred. In terms of sources, the research is based primarily, but not exclusively on the titles 16-18 of the first book of Justinian's Digest. The governor, who, with the emergence of the Roman Empire, was almost independent in the exercise of his power as the bearer of the imperium

militiae and a military commander – the conqueror of new territory, was replaced by a governor who was sent by the senate usually from among its members to head the province, giving him the opportunity to create a highly lucrative activity from his promagistracy, but who was therefore limited in this by his competitors, both factually and gradually also institutionally. With the principate, the focus of the governor's relationship with the central government shifted from the senate to the princeps, whose interests became the main factor determining the position of the governor of the province and his powers. The princeps would resolve the issue of power of an unruly governor by establishing new (often judicial) magistracies, which would reduce the governor's powers, or even by separating entire areas of his powers into multiple magistracies (e.g. Constantine's separation of military and civil power in the province). Conversely, the princeps had the power to strengthen the position of those governors who protected his interests. Lastly, Caracalla's constitution not only shook up the previous concept of social and state organization, but also completely ended the imperialist concept of organizing power with the city-state of Roman citizens as the seat and the provinces as a source of income for the former conqueror. This was an introduction to the constitutional position that the governor of a province would have in the dominate.

Panel 7D

Wataru **Miyasaka**

University of Tsukuba

The reality of auctions in ancient Rome

The presenter is currently working on the research topic of "How did the reality of the auction system in ancient Rome and the legal consciousness of the people who supported it influence Roman jurisprudence?" In Japan, which adopted the auction system from modern Western Europe, court-run auctions (public auctions) have taken root to a certain extent, although the system will need to be reformed in the future. However, while there is a demand for private auctions, people's perceptions of them are not consistent, with concerns about their dangers being pointed out. For this reason, the presenter hypothesizes that in order for the private auction system to take root, people need to have a positive attitude toward private auctions, and aims to verify this hypothesis. In order to answer this question, this research uses the method of "mental history" to explore the legal consciousness of people at that time regarding the auction system. "Mental history" is a method to elucidate the mentality behind the actions of a certain group in the past. As a preparatory step, this paper will examine the following two points. First, it will confirm the actual status of the transaction players, such as argentarius, nummularius, and coactor, who are considered to be the parties involved in auctions. Second, it will consider the specific actual status and procedures of auctions from the 1st century BC to the 1st century AD, using historical materials such as the writings of Cicero and the Sulpician family documents, and will consider the specific types of collateral, the procedures for auction notices, the roles of multiple parties to auctions, etc.

Panel 5A

Hikaru **Mori**

Chuo University

Superficies als Gebäudeteil. Versuch einer Neuinterpretation von D. 43, 18, 1

In der heutigen Forschung lesen wir eine Rechtsquelle so, wie sie geschrieben ist, ohne zu sehr auf Interpolationen zu achten. Wenn wir einen Interpolationsverdacht aussprechen, brauchen wir klare Beweise dafür. Bei den superficies gilt das allerdings noch heute nicht, wir sind immer noch von den Fesseln der Interpolationskritik gefangen. Die Hauptquelle der superficies, D. 43, 18, 1, wird noch heute als von Justinian verfälscht angesehen, obwohl es keine Quelle dafür gibt, dass Justinian absichtlich auf diesem Gebiet Neuerungen eingeführt hätte.

Warum ist das so? Der Grund liegt darin, dass man von der Annahme ausgeht, dass die superficies ursprünglich nur auf städtischem Grund gebaut wird. Dafür gibt es jedoch keine zwingenden Beweise. Es gibt kein einziges Beispiel für ein solches Gebäude, das als superficies bezeichnet wird. Aber niemand hat die genannte Annahme bisher in Frage gestellt. Wenn wir aber diese Grundannahme und die damit einhergehende Selbstbeschränkung aufgeben, können wir die Dinge in ganz anderem Licht sehen.

Panel 9A

Piero **Mosciatti**

Universidad Católica de Concepción

Su un ‚sistema di novationes' nella Magna Glossa

Il presente lavoro affronta lo studio della novatio da parte dei glossatori, mostrando come le complessità presentate dalle fonti giustinianee, da un lato, e le esigenze imposte dalla loro applicazione pratica, dall'altro, abbiano portato a scomporre l'istituto in una pluralità di figure giuridiche, cosicché la novazione venne a 'costituire un generico'.

Panel 1D

Ghenka **Mozzhuhina**

University of National and World Economy Sofia

Diritti reali limitati nel diritto romano alla luce della gestione delle risorse naturali

La relazione si propone di sollevare domande ed esaminare alcuni aspetti giuridici della gestione delle risorse naturali a Roma. Uno di questi problemi riguarda l'istituzione e il contenuto di diritti reali limitati nei casi in cui la gestione delle risorse lo renda necessario.

Le risorse naturali sono di fondamentale importanza per lo sviluppo di Roma, anche nelle province. La loro gestione porta spesso all'intersezione di rapporti pubblici con quelli di natura privata, il che solleva indubbiamente una serie di questioni che devono essere risolte sia dalla legislazione che dai giuristi.

Panel 6E

Ádám **Nagyernyei - Szabó**

Ludovika University of Public Service

Early Imperial period legal scholars in Pannonia

Lecture I. The lecture is part of a series of studies. The studies are about early imperial legal scholars known from codified material and auctor sources, who had personal contact with the province of Pannonia during their careers, more precisely, their Pannonian activities. The current lecture will focus on Claudius Maximus. The data on the life of Caius Claudius Maximus have been considered to be definitely connected by new epigraphic sources only since the second half of the 20th century. His praenomen, Caius, became known in recent times from the text of a Pannonian inscription. He was Iuridicus propraetore utriusque Pannoniae in 136–137. In this capacity, he helped the work of the heir to the throne, Aelius Caesar, who was on a Pannonian mission. He was then governor of Pannonia Inferior from 138 to 141, and then governor of Pannonia Superior between 150 and 156. Based on his known positions, affairs, and mandates under successive rulers, he was one of the most important legal scholars of the 2nd century AD. The Digesta does not preserve a single fragment from him. Together with the known source data about him, this only shows that his activity was more focused on the practical and educational side of jurisprudence. As governor of

Africa Proconsularis, he delivered judgment in the most famous trial of the era. He is also considered a Stoic philosopher. The Meditations of Marcus Aurelius, the biography of Marcus Aurelius in the Historia Augusta, and the Apology of Apuleius constitute auctor data on his life, activities, and character, which are supplemented by epigraphic records regarding his cursus honorum.

Panel 9B

Aleksandra **Niczyporuk**

University of Białystok

Jan Marquart as a Roman Law Scholar of the Borderlands

In May 1650, the academic printing house in Vilnius published a dissertation by Jan (Ioannes) Marquart entitled Dissertatio iuridica de damno iniuriae. Based on the information presented on the title page of the dissertation, it may be presumed that this work served as the basis for awarding its author the doctoral degree. Jan Marquart is often mentioned as one of the first graduates of the Faculty of Law at the Vilnius Academy during the early years of its operation, specifically between 1644 and 1655. Dissertatio iuridica de damno iniuriae is undoubtedly, as the title suggests, a dissertation encompassing Roman law.

In his doctoral dissertation, Jan Marquart presented the legal sources available to him. He cited the writings of Roman jurists and imperial constitutions, primarily those of Justinian, from the Digesta and Institutiones, which formed part of the codification initiated by that very emperor. The method of referencing sources used by the author of De damno injuriae required knowledge of all titles from each part of Justinian's codification and the opening lines of many imperial constitutions. Philosophical writings, particularly those of Aristotle, along with Latin non-legal literature, were well integrated into the arguments presented in the dissertation. This demonstrated not only familiarity with the cited excerpts but also a broader understanding of the available source material. In De damno injuriae, Jan Marquart presented the views of several theologians, jurists, and philosophers known to him. The selection of thinkers and the way their opinions were presented show that the author was well-versed in the available European literature, which he likely accessed through Jesuit libraries in Vilnius.

A cursory reading of the core part of the doctoral dissertation, where the author discusses liability for causing damage, regulated by the Roman lex Aquilia, shows that this was a relevant issue even in the seventeenth century. The liability under the lex Aquilia, created in ancient Rome, and its further development, illustrate problems also encountered by legal scholars in Jan Marquart's time—especially those dealing with liability for damage to property and methods of redress. The questions surrounding the prerequisites of liability for damages, as well as the concept of pecuniary loss and the associated compensation or penalties, remain relevant to this day. The history of the evolution of liability for damages in Roman law offers a foundation for reflection on the development of law. Jan Marquart's dissertation may be regarded as proof that its author wrote a scholarly work within the scope of Roman law. Dissertatio iuridica de damno iniuriae is undoubtedly a solid basis for a doctorate in both branches of law (utriusque iuris), marking the culmination of his legal education.

Panel 4A

Piotr **Niczyporuk**

University of Bialystok

Le sanzioni penali comminate sui provinciali banchieri romani

Gaio Svetonio nelle Vitae Galbae, come parte della sua Vita divi Augusti, descrive il caso di un banchiere (nummularius) e la sanzione penale applicata nei suoi confronti dal successivo imperatore Galba. Il governatore della provincia di Hispania Tarraconensis ordinò di tagliare

le mani a un banchiere che cambiava ingiustamente denaro. Per dimostrare una maggiore severità della punizione, ordinò che le mani tagliate fossero inchiodate al tavolo dove il banchiere stava compiendo gli atti disonesti. Indubbiamente, i nummulari puniti da Galba svolgevano operazioni all'interno della mensa nummularia. I proprietari dei cantori si servivano di persone qualificate reclutate tra gli strati sociali più bassi, soprattutto schiavi, per eseguire le operazioni di zecca. L'esame professionale della qualità di una moneta richiedeva una grande quantità di lavoro specialistico. Il detenuto partecipava all'attività bancaria come personale tecnico di supporto. Le operazioni di conio e di verifica si concludevano con la sigillatura del borsellino con tessere nummulariae. Tali operazioni specialistiche non erano eseguite dai cittadini romani. Il contenuto delle tesserae nummulariae può essere un'indicazione del fatto che le operazioni di verifica erano eseguite da schiavi. I servi erano effettivamente a conoscenza del contenuto dei borsellini controllati e il processo di controllo poteva essere occasione di abusi o addirittura di atti punibili. Lo schiavo avrebbe quindi subito una punizione meritata e adeguata sotto forma di taglio delle mani e inchiodamento al tavolo presso il quale svolgeva disonestamente le attività di conio e collaudo.

Panel 1E

Marek **Novák**

Charles University

The Development of the Written Form of Legal Acts in Roman Law

The paper examines the development of the requirement for written form in legal acts in Ancient Rome. Both archaic and, to a certain extent, classical Roman law are characterized by an emphasis on the form of legal acts. However, this form was predominantly based on oral declarations and actions, rather than written records. With the gradual decline of legal formalism, we can observe at the same time that the practice of recording the content of legal acts became more common. The practice of drafting declaratory documents, which were not a condition for the validity of a legal acts but were intended to simplify their proof in the future, became more and more common. Finally, during the Imperial period, and especially in Justinian law, legislation began to significantly expand the requirements for the written form of legal acts.

Panel 1B

László **Odrobina**

Ludovika University of Public Service

Continuità giuridica e interazione culturale: la sopravvivenza di una norma giuridica ebraica nel diritto romano tardoantico

Nel 388, la costituzione CTh 3,7,2 comminava la pena prevista per l'adulterio agli uomini ebrei che sposavano donne cristiane e viceversa ai cristiani che prendevano in moglie donne ebree. Un simile divieto matrimoniale basato sull'appartenenza religiosa risulta del tutto estraneo al diritto romano classico. Sebbene molti studiosi abbiano ritenuto ovvio che Teodosio I – che solo otto anni prima aveva proclamato il cristianesimo religione di Stato – abbia promulgato questa legge a tutela della fede cristiana, diversi elementi lasciano intendere che tanto la formulazione quanto la sanzione riflettano più da vicino il pensiero rabbinico ebraico dell'epoca, piuttosto che quello di influenti esponenti cristiani, come ad esempio Ambrogio di Milano. Inoltre, tale provvedimento si rivelava maggiormente funzionale agli interessi e alla mentalità dell'ebraismo (specialmente al principio matrilineare), rispetto al cristianesimo, che in questo modo si sarebbe limitato a prevenire la "commistione" con l'elemento ebraico, senza però contrastare la ben più rilevante minaccia rappresentata, ancora in quell'epoca, dalla religione "pagana". Va inoltre rilevato che la pena prevista per adulterio, la poena capitalis, si poneva in contrasto con i principi fondamentali della fede cristiana.

Attraverso l'analisi del diritto rabbinico e del contesto storico coevo, l'intervento si propone di dimostrare l'origine periferica – ossia riconducibile alla provincia di Iudaea – di questa legge

successivamente recepita quasi integralmente anche nel Codex Iustinianus. L'obiettivo è quello di mettere in luce le dinamiche di interazione religioso-culturale che resero possibile una forma di continuità giuridica tra le due comunità e che trovarono espressione nella promulgazione della CTh 3,7,2.

Panel 1D

Diego Díez **Palacios**

Universidad Autónoma de Madrid

El sistema de la res publicae: una creación de la jurisprudencia romana

La emergencia de la res publicae como categoría jurídica constituye la conclusión del proceso de configuración de la relación entre cosa común y comunidad política en la forma de la titularidad. Desde ella, como matriz, se abre el camino a la formulación de las expresiones res publicae in publico usu y res publicae in patrimonio populi, así como a la definición de las notas que las informan y que, posteriormente, informarán también las figuras de los bienes demaniales y patrimoniales del Estado.

Ambas fórmulas son una obra de la jurisprudencia romana laica del último periodo republicano que viene a sistematizar, con el auxilio del método dialéctico griego, la categoría res publicae como instituto que la comprende. Res publicae in publico usu es el primer léxico técnico y propio que experimenta la idea de la cosa pública de uso público en el seno romano. Res publicae in patrimonio populi es el primer léxico técnico y propio que experimenta la idea de la cosa patrimonial pública en el seno romano. El sistema de la res publicae, formado por las mencionadas categorías, surge de una operación jurisprudencial dirigida sobre cuestiones y problemas de naturaleza jurídico-privada. En sentido estricto, el citado sistema no llegó a cristalizar ya que fue sustituido por la división res publicae para identificar la antigua res publicae in publico usu, y res fisci para identificar la antigua res publicae in patrimonio populi.

Panel 4B

Arnaud **Paturet**

Centre National de La Recherche Scientifique/Ecole normale supérieure

Gender studies, ancient society and law: new method of analysis

For a long time, Roman history, taken in its social and legal aspects, was written as a history of males, before Women's Studies and very recently Gender Studies tried to re-established a kind of balance, even if this last field is still little explored by law historians. The hierarchical structure of Roman society – reputed to have been highly macho – was not necessarily based on a simple sex relationship but on a gender relationship in which the individual's biological sex was not enough to fix his or her identity. Actually, many criteria relating to bodily attitudes in the broad sense (body language, clothing, hygiene, morality, personality etc.) were ultimately more important in assessing an individual's sexual identity. In this complex social game, the Romans could consider the existence of a tertium genus hominum between man and woman. In line with a detailed social analysis and the idea that law is an extension of social culture according to many anthropologists, we have to consider that interpretation of legal texts would require the use of a specific reading grid to assess their gendered issue. The conception of this grid is a major part of the work made by the team operating the ANR HLJP gender project initiated in 2022, for which we developed a specific working method for law history in general that is still being tested for law sources presenting a gendered aspect. Through the exegesis of some roman legal texts relating to public and private spheres organization, we will illustrate how a gender-specific reading grid could possibly refine our knowledge of Roman law.

Panel 2D

Martin **Pennitz**

Universität Innsbruck

Zur Einräumung von Rechten an eigenen Sachen durch fremde Hand

Der allgemein gehaltene Text Ulp. D. 50.17.45 pr. scheint zu belegen, dass Rechtsgeschäfte, in denen sich ein Eigentümer Rechte an seiner eigenen Sache einräumen lässt, von der klassischen Jurisprudenz als nichtig eingestuft werden. Da sich aber auch Entscheidungen finden, die in bestimmten Konstellationen eindeutig für die Gültigkeit derartiger Vereinbarungen sprechen, geht die herrschende Lehre insoweit von Ausnahmen aus, die diese generelle Regel bestätigen. Allerdings stützen sich weitere Texte wie z.B. Iul. D. 16.3.15 oder Afr. D. 41.2.40.3, die die Thematik ebenfalls von einem allgemeinen Standpunkt her behandeln, in diesem Zusammenhang auf eine aktionenrechtliche Sichtweise. Im Vortrag soll daher – insbesondere am Beispiel des Bestandvertrages, wenn also etwa ein Eigentümer, sei es wissentlich oder unwissentlich, das eigene Objekt mietet oder pachtet (z.B. Iav. D. 41.3.21; Ulp. D. 7.4.29 pr. etc.) – untersucht werden, ob ein aktionenrechtlich orientierter Ansatz nicht zu einem harmonischeren Verständnis des überlieferten Quellenbefundes und somit zu einer Modifikation der derzeitigen Lehre führen könnte.

Panel 6D

Bernardo **Periñán Gómez**

Universidad Pablo de Olavide

Beyond the Provinces: Roman law in Spanish Louisiana

The De la Vergne Volume collects the notes of Louis Moreau-Lislet, the father of Louisiana civil codification, on the historical origin of this unique North American law, notable for its connection to Castilian law and, consequently, to Roman law. Precisely for this reason, it can be asserted that the confirmed influence of the Louisiana Code on Spanish codification through García Goyena's Project is, to a certain extent, that of Spanish historical law itself clothed in foreign norms. Moreau-Lislet's value as a jurist, as a material autor of the codification and as a glossator of his own work, is also highlighted.

Panel 9A

Veronika **Petiova**

Commenius University

Il canone 71 del Concilio di Elvira: la prima condanna ecclesiastica dell'abuso sessuale

Il Concilio di Elvira, celebrato nella Hispania romana all'inizio del IV secolo, rappresenta una delle più antiche testimonianze normative della Chiesa latina. Tra i suoi 81 canoni, il canone 71 si distingue per la sua straordinaria rilevanza storico-giuridica, in quanto costituisce la più antica condanna esplicita dell'abuso sessuale su minori. Il testo, redatto in latino, esclude in modo categorico dalla comunione ecclesiastica coloro che si siano resi colpevoli di stuprum in puerulis, negando loro persino la riconciliazione in punto di morte. Questo contributo analizza il contesto storico, linguistico e giuridico del canone, mettendo in luce la precoce consapevolezza della Chiesa antica circa la gravità di tale delitto e la severità della risposta ecclesiastica. Il canone 71 si rivela così una pietra miliare nella storia del diritto penale canonico e una fonte imprescindibile per comprendere le radici del contrasto ecclesiastico agli abusi sui minori.

Panel 7B

Guido Christian **Pfeifer**

Johann Wolfgang Goethe-Universität Frankfurt am Main

Die Defizite des Rechts – Überlegungen zu Euripides‘ Medeia

Zahlreiche Nachdichtungen bereits in der Antike sowie Inszenierungen und literarische Adaptionen bis in die jüngste Gegenwart belegen, dass Medeia zu den wirkmächtigsten Tragödien des Euripides gehört. Dementsprechend ist auch der wissenschaftliche Diskurs über philologische, philosophische, psychologische, politische und sogar feministische Aspekte dieses Werks kaum zu überschauen. Spezifisch rechtshistorische Untersuchungen scheinen hingegen die Ausnahme. Vor diesem Hintergrund fragt der hier unternommene Versuch nach dem rechtshistorischen Erkenntniswert antiker Tragödiendichtung, der auch Defizite des Rechts und der Rechtsordnung einschließt.

Numerous rewritings as early as antiquity as well as productions and literary adaptations up to the present days prove that Medeia is one of Euripides’ most powerful tragedies. Accordingly, the scholarly discourse on philological, philosophical, psychological, political and even feminist aspects of this work can hardly be overlooked. Specific studies of legal history, on the other hand, seem to be the exception. Against this background, the attempt undertaken here asks about the legal-historical cognitive value of ancient tragedy poetry, which also includes deficits in law and the legal system.

Panel 1A

Johannes **Platschek**

Ludwig-Maximilians-Universität München

Zur mündlichen Quittierung und schriftlichen Empfangsbuchung bei den Römern

Much has been discussed about the clause ex interrogatione facta tabellarum signatarum – ‘based on/in accordance with the questioning that took place of the sealed document’ in the payment receipts from the Pompeian ‘Archive of L. Caecilius Iucundus’ (CIL IV 3340): Who was ‘questioned’ here and about what? What connection does the genitive tabellarum signatarum establish between the ‘questioning that took place’ and the ‘sealed document’? The documents TH2 41 (AD 67) and TH2 A29 (yet unpublished) now clearly show the clause ex nomine facto tabellis signatis (already recognisable elsewhere). Both the fact that an alternative to the (oral) interrogatio facta appears here in the (written) nomen factum, and the recognisable interchangeability of the genitive tabellarum signatarum with the ablative tabellis signatis contain essential information about the understanding of both clauses, which can be reconciled in particular with Seneca’s statements on interrogatio and nomen facere: The interrogatio facta clause stands for a solemn verbal acknowledgement of the actual payment received by the recipient, documented in the tabellae signatae; the nomen factum clause, on the other hand, concerns cases in the area of repayment in which the two sides of the actual payment are not also the parties to the obligation to be performed. The parties to the obligation will then use nomen facere, i.e. they will carry out the performance purely in writing, while the actual payment remains undocumented.
Sen. ben. 3.15.2 (about establishing a debt)

Adhibentur ab utraque parte testes; ille per tabulas plurium nomina interpositis parariis facit; ille non est interrogatione contentus, nisi reum manu sua tenuit. … In quid isti ornati viri adhibiti sunt? in quid inprimunt signa? nempe ne ille neget accepisse se, quod accepit. Hos incorruptos viros et vindices veritatis existimas – at his ipsis non aliter statim pecuniae conmittentur.

“Witnesses are called in by both parties. One (creditor) creates nomina through the document(s) of several (persons) (?) by involving pararii (?). Another one is not satisfied with

the interrogatio until he is holding the debtor by his handwritten statement. … Why were these highly respected people called in? Why are they sealing? Surely so that the other party cannot dispute that he has received what he has received. You consider these people to be incorruptible guarantors of the truth – but even they would not be entrusted with money without further ado.”

Panel 6B

Anna **Plisecka**

Kalaidos Law School

The stick and the carrot: Notes on P.Col. VI 123 ll. 6-8

The brief visit of Septimius Severus and Caracalla to Alexandria at the turn of 199 to 200 AD, offered the local community a rare opportunity to present their legal concerns directly to the emperors. The imperial responses to these petitions now serve as valuable sources for understanding the dynamics between the central Roman administration and provincial populations during this period. This paper focuses on the imperial apokrima copied in P.Col. VI 123 (AD 200) on ll. 6-8, which records the temporary suspension of penalties imposed on Alexandrians and Egyptians. Notably, while the measure primarily affected the peregrine population, the petition was submitted by a Roman citizen Ulpius Heraclanus Callinicus. This raises the question of why he sought clarification regarding the suspension of penalties for peregrines. The main objective of this paper is to critically evaluate various hypotheses concerning the context, nature, and rationale behind the penalties and their suspension. By examining these issues, the paper seeks to shed light on the administrative practices of the Roman Empire and the interaction between imperial authority and provincial communities at the beginning of the third century AD.

Panel 4C

Attila **Pókecz Kovács**

Ludovika University of Public Service

Administration des provinces pannoniennes au IVe siècle (296-395)

L’empereur Tibère a remporté une victoire contre les Illyriens vers 12 après J.-C. La province de Pannonie a été créée à ce moment-là. Entre 103 et 107 apr. J.-C., la Pannonie, qui était autrefois unifiée, a été séparée en Pannonie supérieure à l’ouest (avec Carnuntum comme capitale) et Pannonie inférieure à l’est (avec Aquincum comme capitale). Dans l’Empire romain du IIIe siècle, les provinces pannoniennes avaient une importance particulière en tant que frontières le long du Danube, dissuadant les attaques des tribus germaniques. La cour impériale est établie à Sirmium (en Pannonie inférieure) par Maximin le Thrace en 235. La période allant de 193 à 284 après J.-C. peut aussi être appelée le siècle des Pannoniens, car plusieurs empereurs d’origine pannonienne ont accédé au trône. Septime Sévère a gouverné de 193 à 211 et a accédé au trône impérial depuis Carnuntum en Pannonie. Sept empereurs romains sont nés à Sirmium ou à proximité de la ville: Trajan Dèce (249-251), Herennius Etruscus (251), Hostilien (251), Claude II le Gothique (268-270), Quintillus (270), Aurélien (vers 270-275), Probus (276-282). Au IVe siècle, plusieurs empereurs étaient aussi d’origine pannonienne: Maximien (vers 285-305), Constance II (337-361) et Gratien (367-383) sont nés à Sirmium, et Valentinien Ier naît en 321 à Cibalae, en Pannonie du sud.

La conférence cherche à répondre à la question de savoir comment l’administration des provinces pannoniennes a changé au IVe siècle, en analysant les sources juridiques, littéraires et épigraphiques. Pendant les règnes de Dioclétien et de Constantin, il y a eu une réorganisation de l’administration des provinces pannoniennes. La division des deux anciennes provinces en quatre a été le changement le plus marquant. La Pannonie inférieure est divisée en deux: au nord, la Valeria (avec pour capitale Sopianae), au sud,

la Pannonia Secunda (avec pour capitale Sirmium). La Pannonie supérieure est, elle aussi, divisée en deux: au nord, la Pannonia Prima (avec pour capitale Savaria), au sud, la Pannonia Ripariensis ou Savia (avec pour capitale Siscia).

Dans un premier temps, je m'intéresse à la mise en pratique de l'administration centrale civile pendant le Bas-Empire romain, en particulier à travers les activités des fonctionnaires impériaux à divers niveaux administratifs tels que la préfecture, le diocèse et la province. Ensuite, je passe en revue l'administration militaire, qui diffère de l'administration civile, en ce qui concerne le rôle des provinces danubiennes dans la défense militaire de l'Empire romain. Enfin, je passe en revue les caractéristiques de l'administration de certaines cités pannoniennes (Aquincum, Sopianae, Sirmium, Savaria) qui ont eu des statuts juridiques différents pendant cette période.

Panel 2A

Norbert **Pozsonyi**

University of Szeged

Pfandklauseln, Pfandcharakter und Verpfändungspraxis im Archiv der Sulpizier

Die Urkunden des sog. Archivs der Sulpizier bieten ein faszinierendes Panorama auf die alltägliche Vertragspraxis des 1. Jahrhunderts n. Chr. In diesem Archiv befinden sich insgesamt vier Verträge, die Pfandabreden dokumentieren (TPSulp. 51–52; 55; 79), aber nur TPSulp. 79 enthält eine ausdrückliche Vereinbarung über den Pfandverkauf (pactum de vendendo). Es stellt sich daher die Frage, welche Folge die Verpfändung gehabt haben dürfte, wenn die Parteien kein pactum de vendendo vereinbart hätten? In letzter Zeit entstand zu dieser Frage eine lebhafte Diskussion in der juristischen Literatur. Es gibt zwei denkbare Möglichkeiten: Entweder verfällt das Eigentum der Pfandsache nach der Pfandreife – ohne weiteres – dem Pfandgläubiger oder der Gläubiger erwirbt bloß ein Zurückbehaltungsrecht an der Pfandsache, falls der Schuldner nicht zahlen kann oder will. Um diese Frage beantworten zu können, müssen wir zunächst die Schriften der römischen Juristen (also die juristische Auslegung der Vertragspraxis) prüfen. In meinem Vortrag versuche ich zu diesem Thema – anhand der Analyse der einschlägigen Quellen – Stellung zu nehmen.

Panel 8F

Lyuba Stefanova **Radulova**

Sofia University „St. Kliment Ohridski"

Osservazioni sulla synchoresis nelle province orientali romane

Nel contesto del diritto funerario la synchoresis è un istituto, attestato nelle province orientali, soprattutto di Asia Minore, che riguarda la cessione di certi diritti sul sepolcro. Nonostante si tratti di un istituto noto già in età ellenistica, la maggioranza dei relativi documenti epigrafici risale all'età imperiale e spesso coinvolge personaggi che possiedono la cittadinanza romana. Si forma così una realtà complessa, nella quale si sfumano i confini tra diritto greco e diritto romano allo scopo di raggiungere un obiettivo particolare – di permettere al titolare del sepolcro di disporne liberamente secondo la propria volontà.

La relazione si propone di esaminare il corpus epigrafico relativo alla synchoresis, ponendosi le domande seguenti:

1) Quale è lo status giuridico delle persone coinvolte? È possibile effettuare synchoresis se entrambe le parti sono cittadini romani?

2) Quali diritti vengono trasferiti tramite la synchoresis? Quali sono le conseguenze giuridiche per il titolare della tomba che intraprende questo negozio?

3) La synchoresis è un negozio a titolo gratuito o retribuito? Viene effettuato inter vivos o mortis causa?

4) Perché alcuni cittadini romani ricorrono a questo istituto preromano? È una scelta dovuta alla tradizione locale o la synchoresis offre possibilità che mancano nel diritto romano?

Panel 9B

Anna Mária **Radványi**

Pázmány Péter Catholic University

The legal thought of János Zlinszky: The exegeses of Iul. D. 40, 4, 16 and Paul. D. 19, 1, 21, 6

This presentation aims to introduce the unique thinking style of János Zlinszky, a Hungarian legal scholar, professor of Roman law, and constitutional judge, by analysing specific legal cases. The presentation focuses on two cases originating from the Digest.

The first is a passage attributed to Iulianus (D. 40, 4, 16 [36 dig]) that raises the issue of interpreting a testamentary clause. The second case relates to a text by Paulus (D. 19, 1, 21, 6 [33 ad ed.]), in which the seller transfers ownership of a house while reserving for himself the right of habitation (habitatio) or the payment of ten gold coins per year. Here, too, the question concerns the interpretation of the contractual clause: may the buyer change the form of performance on an annual basis?

The two cases are linked not only by the interpretive issues they raise but also by the fact that in both instances, János Zlinszky arrives at a conclusion that differs from the classical solution offered in the Digesta. The presentation explores what may justify such a deviation. Are these alternative conclusions sustainable? Can they be explained by the specific aims of teaching Roman law, or are they instead rooted in the practical experience of a modern jurist?

Through the classical exegesis of these two cases, the presentation also sheds light on the distinctive interpretive method characteristic of Zlinszky's thinking – one that is rooted in the tradition of Roman law yet capable of departing from it. If we regard the solutions of the Roman jurists in the Digesta as the general rule, is it possible to make exceptions and arrive at contrary conclusions?

Panel 7C

Robin **Repnow**

Ruprecht-Karls-Universität Heidelberg

(Kein) Eigentumserwerb a non domino durch die kaiserliche donatio einer fremden Sache in der Spätantike

Aus der Spätantike sind zahlreiche Kaiserkonstitutionen über die Rechtsfolgen kaiserlicher Schenkungen überliefert. Die vom Kaiser an Private verschenkten Sachen stammten oft aus Nachlässen, für die kein (tauglicher) Erbe existierte (bona vacantia und caduca), oder aus dem Vermögen verurteilter Straftäter (bona damnatorum). Im spätantiken Kaiserrecht war anerkannt, dass derartige kaiserliche Schenkungen – entgegen der allgemeinen Regel nemo plus iuris transferre potest quam ipse haberet – auch dann zum sofortigen Eigentumserwerb des Empfängers führten, wenn der Kaiser gar nicht zur Verfügung berechtigt war (etwa wenn er eine Erbschaft zu Unrecht für herrenlos hielt). Es existieren jedoch einige Konstitutionen, die von diesem Grundsatz wiederum Ausnahmen vorsehen, also dem Eigentümer einer Sache die Vindikation gegen eine Person ermöglichen, die den Besitz infolge einer kaiserlichen Schenkung erhalten hat. Der Vortrag analysiert diese Konstitutionen und untersucht, ob ihnen ein gemeinsames Prinzip zugrunde liegt.

Panel 8F

David Bryan **Rockwell**

Independent

Nec liceat iudici memoratam augere taxationem occasione consuetudinis in regione obtinentis: Regional differences in interest rate regulation in Justinian's Codex and Novels

In December 528, Justinian re-regulated the rates of interest that might be charged, not just as "legal interest" but also as "conventional" interest, i.e. by agreement, such as in the context of loans and similar obligations. The constitution by which he did so, CJ 4.32.26, evinced a stated intent to moderate the oppressive rates of interest that could previously be exacted (c.1: veterem duram et gravissimam earum molem ad mediocritatem deducentes). To protect the tiered structure of maximum rates the new law introduced, Justinian included in it a range of anti-evasion measures, one of which was to bar appeal to regional custom as a justification for rates higher than his new caps (c.3, quoted in the title above). Within a decade, however, the same emperor would go on to establish region-specific rate caps in constitutions aimed at ameliorating exploitative financial practices arising in the context of famine in Illyria (Novels 32–34) and, on some views, also maritime loan practices in Constantinople (Novel 106, repealed by Novel 110).

This proposed paper looks at Justinian's treatment of regional differences in interest rates against the background of past practices in recognising different interest rates by virtue of mos regionis and, especially compared his treatment of regional custom more generally in the Codex repetitae praelectionis. The paper contextualises the treatment of purported regional variation against the other anti-evasion measures of CJ 4.32.36 and against the emperor's own subsequent legislative practice in his post-compilation lawmaking. It argues that careful examination of the text of the Codex provision against that of relevant Novels sheds important light on the construction of both the IIIlyrian-famine Novels of 535, and also on Justinian's failed re-regulation of maritime loans in 540–1.

Keywords: interest rates, regional differences, CJ 4.32.26, Novels 32, 33, 34, 106, 110.

Panel 3D

Julio **Romano Cabello**

Universidad Carlos III de Madrid

The Constantinian rescripts of Fragmenta Vaticana: some procedural questions

The study of Constantine's rescripts preserved in Fragmenta Vaticana allows for an in-depth analysis of some procedural questions such as the role of the urban prefect as judge in the Constantinian period or the determination of the judicial functions assumed by the provincial governors in this same period. Questions that are closely linked to the theme of this conference, which is aimed at addressing the relations between central power and the periphery.

Panel 2E

Antonio **Saccoccio**

'Sapienza' Università di Roma

Globalizzazione e universalità del diritto romano

Il diritto romano, fin dalle sue origini, presenta una evidente propensione all'universalità. Essa si manifesta chiaramente alla "fondazione" del sistema, nelle Costituzioni con cui Giustiniano accompagna il varo del CJC, ma rimonta senza dubbio indietro nel tempo, fino

alla individuazione da parte dei romani del ius gentium, alla cui base viene riconosciuta la naturalis ratio. Lo statual-legalismo non è stato in grado di recidere questo cordone ombelicale con il diritto romano e con la ragione naturale che si pone a suo fondamento. Il diritto romano, vigente ancorché non più effettivo, costituisce il motore delle moderne codificazioni, e deve essere custodito dai moderni operatori del diritto come un vero e proprio patrimonio comune dell'umanità. La salvaguardia dei valori da esso rappresentati, che ruotano intorno alla centralità della persona umana (bona fides, aequitas, libertas, voluntas ecc.) rappresenta la sfida che tutti noi, in quanto giuristi, dobbiamo dimostrare di essere in grado di raccogliere.

Panel 1B

Pavel **Salák**

Masaryk University

The Treasure Trove in Non-Legal Sources

This paper primarily focuses on the discovery of treasure in Horace's Satires (2.6.10–13) and the Gospel of Matthew (Mt 13:44), where the finding of treasure is mentioned. The key questions are the legal relevance of these two texts and the possible influence of Roman law in the province of Judea in the context of treasure discoveries.

Panel 5A

João Guilherme **Sarmento**

University of Brasília

Revisiting possessio and condominium under superficies solo cedit in Roman Egypt

Beginning with its institutional basis in Greek law and then extending to other areas, especially Ptolemaic Egypt, this article examines the historical history and legal relevance of co-ownership (condominium) in antiquity. The study shows, using papyrological evidence, that co-ownership practices persisted under Roman rule in the province of Egypt, therefore undermining the universal applicability of the Roman legal maxim superficies solo cedit.

Antique Roman law forbids, with few and controversial exceptions, several owners of the same property. Local legal circumstances lead a pluralist view of Roman law to challenge this exclusivity and help to reevaluate fundamental concepts like possession.

Particularly addressing the possible coexistence of numerous possessors over the same land and the associated legal criteria, the article explores the consequences of acknowledging different owners for the Roman categories of possessio civilis and possessio naturalis. Particular focus is on a section of the Digest on the partial transfer of ownership from husband to wife under Greek legal tradition, which provides a case study to investigate whether this transfer connotes simple detention or natural possession. The fact that, under ancient Roman law, donations between spouses were expressly outlawed magnifies this issue.

Through a reevaluation of these issues, the study strengthens the larger debate on the limitations of legal centralism in Roman provincial government and stimulates a reassessment of the functioning of Roman private law in different local settings.

Panel 2A

Philipp **Scheibelreiter**

Universität Wien

Kaufvertrag versus Darlehen: Zu Text und Interpretation von FIRA III 137

Dass auf der berühmten Holztafel aus Tolsum in Friesland (FIRA III 137) ein römisch-germanischer Kaufvertrag über einen Ochsen dokumentiert ist, wurde 2009 durch eine, auf aufwendiger technischer Analyse basierenden Neulesung der Tafel mehr als nur in Frage

gestellt: In dem Beitrag „Emptio Bovis Frisica: the Frisian Ox Sale“, JRS 99 (2009) 156–170 kommen A.K. Bowman, R.S.O. Tomlin und K.A. Worp zu dem Ergebnis, dass die Holztafel einen völlig anderen Text abbilde, nämlich den Schlussabschnitt eines Darlehensvertrages. Auf eine rechtliche Interpretation des Textes, der sprachlich wie terminologisch, und daher auch: juristisch vielleicht mehr Probleme bereitet als der Wortlaut des Viehkaufvertrages nach der (überkommenen?) Lesung es getan hat, gehen die Autoren bewusst nicht näher ein. In der Untersuchung soll die Urkunde nach rechtshistorischen Gesichtspunkten näher analysiert werden.

Panel 7E

Silvia **Schiavo**

University of Ferrara

Volontà testamentaria e lasciti a favore degli imperatori. Il caso dei testamenta ingrata

Volontà testamentaria e lasciti a favore degli imperatori. Il caso dei “testamenta ingrata”. Diverse fonti testimoniano la prassi, diffusa già a partire dal Principato, di lasciti testamentari provenienti da cittadini privati a favore degli imperatori, nonché le reazioni, diverse, degli imperatori stessi rispetto a tale fenomeno: reazioni di apprezzamento (come, per esempio, in Suet. Aug. 66), interventi volti a spingere la volontà testamentaria in questa direzione, quasi delineando un obbligo in capo ai testatori, con la previsione di conseguenze negative in caso di mancato adempimento (Suet. Caius 38.4) e, infine, provvedimenti, di segno del tutto opposto, tesi invece a ribadire la libertà nella determinazione delle loro ultime volontà (si pensi a C. 6.22.6, costituzione di Costanzo del 355).

Dopo una rapida ricostruzione del quadro generale di riferimento, ci si occuperà di un particolare aspetto emergente dalle fonti sul tema, che risulta dibattuto in letteratura. Talvolta, infatti, gli imperatori arrivano a stabilire l’invalidità dei testamenti privi di lasciti a loro favore (si parla di “rescindere testamenta”, o di “testamenta irrita” o “vana”) riconducendo tale invalidità all’area della ingratitudine. É plausibile che la ragione giuridica retrostante, come sostenuto da alcuni, sia la violazione di un obbligo di gratitudine verso gli imperatori? E qual è la natura delle sanzioni stabilite?

La relazione tenterà di chiarire questi aspetti.

Panel 7D

Dschungmo Ivo **Seong**

The University of Seoul

Local customs or customary law compared to Roman customs or customary law

In my presentation, I examine local customs and customary law. Expressions such as consuetudo, mos, mores are the objects of my research. In this presentation, I particularly intend to examine local customs or customary law in passages of the Digest where Roman jurists explicitly express them as consuetudo loci or mos regionis.

Whether what in every case is treated is custom or customary law should also be further examined. Whether mos was a general custom or a local custom should also be examined. In cases where civitas is used, the precise meaning of it is unclear since this term can mean both state and city.

Furthermore, among expressions of consuetudo, there are cases that correspond to a third type of long-term practice that is neither Roman custom nor local custom. This is a certain practice discovered in the relationship between Rome and the provinces, which continued through Rome’s tolerance. This type of practice is not customary law in the fact that Rome had no intention of being bound by this practice.

It should be carefully examined whether what was specifically at issue in each individual case was merely a practice, a relatively established custom, or furthermore customary law. However, in many cases the boundaries are unclear. What can be acknowledged is

that, looking at various similar phenomena, the existence of practices and customs clearly admitted, and furthermore, the existence of customary law was also highly probable.

Panel 5E

Caian Silva **Nogueira**

Ludwig-Maximilians-Universität München

Auslegungstheorie in Cicero und Quintilian

In der Gerichtsrede beabsichtigt man die Überredung des Entscheidungsträgers zugunsten eines parteiischen Interesses. Der Redner muss also bei jedem Streitpunkt zwei gegensätzliche Sichtweisen verteidigen können. Der status scriptum et voluntas (Cic. de inv. 2.121 ff.; Quint. inst. or. 7.6) ist in dieser Hinsicht allgemeinbekannt. Er wird normalerweise als Streit über die Auslegung verstanden, ist aber eher ein Streit über die entscheidende Rechtsquelle: soll die Rechtsnorm aus einem Willen, der sich in einem Wortlaut kristallisiert hat, oder aus einem Willen über den Wortlaut hinaus ermittelt werden? Die Frage nach der entscheidenden Rechtsquelle und die Frage nach deren Auslegung vermischen sich in konkreten Fällen, denn für scriptum oder voluntas wird erst aus der Absicht plädiert, ein günstiges Auslegungsergebnis zu erzielen. Die Auslegung folgt jedoch aus logischem Gesichtspunkt auf die Bestimmung der Rechtsquelle, und ist somit eine nachträgliche, spezifische Frage. Diese wird von Cicero und Quintilian zusammen mit der Subsumtion als finitio, definitio aufgefasst, aus der sich ein status finitionis ergeben kann (Cic. de inv. 52–6; Quint. inst. or. 7.3). Es wird sich zeigen, dass die Auslegung aus teleologischem Gesichtspunkt erfolgt und auf ein diäretisches Verständnis des Normtatbestands zielt.

Panel 4C

Boudewijn **Sirks**

University of Oxford

Condicionales, a legal category?

In CTh 8.1.3, 5, 7 and 8 people in the fiscal administration are turned temporarily into condicionales, and may even be tortured (CTh 8.1.4, 6). Is this on account of their status, or because of the possibility they have to commit fraud? What does the term condicionalis – a vilior condicio – imply and is there a connection with other statuses like the colonate? Does the term indeed refer to a legal status within the freeborn Roman citizens which is not as with children in potestate private law, but one of public law? These questions will be addressed.

Panel 5D

Kamil **Sorka**

Jan Dlugosz University in Częstochowa

Old scholia to the Basilica as a tool in the search for the context of the Justinian compilation passages

The Roman law science is constantly looking for sources of inspiration in the study of the Justinian compilation texts, which, after all, have been subjected to interpretation for centuries. An excellent source for taking a fresh look at these texts are the remains of the teaching of law professors (the so-called antecessores) from the time of emperor Justinian and a little later. Fragments of their lectures have been fragmentarily transmitted in the form available to us today as the so-called old scholia to the Basilica. These scholia are all the more valuable because some of the antecessores not only commented on the texts of the Justinian compilation, but also edited them themselves on behalf of emperor Justinian.

The author of the paper recently obtained a research grant from the Polish National Science Center dedicated to investigating the hypothesis that analysis of the old scholia does not lead only to a dogmatic commentary on the information already contained in the texts of the Justinian compilation, but often allows one to obtain information otherwise unknown, for example, as to the context of a given decision. The purpose of the paper is to present the assumptions of the project and its preliminary findings.

Panel 2C

Ward **Strengers**

Universität Münster

D. 19,1,52 pr. (Scaevola 7 dig.) and tax collection in the provinces

Lacking the extensive state apparatus of modern nations, the Romans relied heavily on contracts with private tax collectors to ensure a regular flow of income. Especially in the provinces, this practice continued well into the Principate. Although such a system was undoubtedly efficient, the powers of exaction the tax leases (leges locationes) bestowed upon the collectors raised both legal and political problems.

In D. 19,1,52 pr., Scaevola is presented with a case concerning a creditor who sells a plot of land pledged to him, under the condition that any tax arrears shall be for the buyer. Subsequently, the plot is sold by the local tax farmer (conductor saltus) on account of tax arrears, remarkably to the same buyer. According to Scaevola, he would however be entitled to the tax receipts in possession of the first creditor.

The case may help us to understand the conditions under which such a sale on account of tax arrears was possible, and how the Romans struck a balance between the different interests at stake.

Panel 8D

Béla **Szabó**

University of Debrecen

Ein Versuch zur Interpretation eines pseudo-ulpianischen Fragments (D. 10,2,50) und zur Bewertung seiner rechtshistorischen Bedeutung

Das Werk, mit dem Titel Opinionum libri, das wahrscheinlich im frühen 4. Jahrhundert n. Chr. in einem provinziellen Kontext verfasst und von den Kompilatoren von Iustinian dem Spätklassiker Ulpian zugeschrieben wurde, beinhaltete eine interessante Textstelle, die erhebliche Interpretationsprobleme aufwirft. Das kurze Fragment (D. 10,2,50), das der letzte Text des Kapitels über die actio familae herciscundae ist, beantwortete ursprünglich aller Wahrscheinlichkeit nach nicht dieselbe Frage, die die meisten kontinentaleuropäischen Juristen seit dem Mittelalter als Casus dieses Fragments rekonstruierten. In dem Vortrag wird es versucht, die ursprüngliche Bedeutung des Textes zu rekonstruieren. Dabei wird auch erörtert, warum und wie dieser Text, der im Mittelalter und in der Neuzeit große wissenschaftliche Aufmerksamkeit erhielt, in der modernen Rechtsprechung und Gesetzgebung an die Peripherie gedrängt wurde.

Panel 2C

Dalma **Szentes**

University of Pécs

The Continuity of the Lease Model in Labour Law: Insights from its Roman Origins

Although labour law is commonly regarded as a relatively young branch of law, the employment contract itself may be considered one of the oldest contractual forms, with roots tracing back to the locatio conductio contracts of Roman law. While the locatio

conductio operarum lacked the social and protective regulatory elements that characterise modern employment relationships, the structure of lease continued to influence the results of the great private law codifications of the 19th and 20th centuries. The legacy of the locatio conductio operarum is evident both in the French Code Civil and in the German BGB. The provisions of the Code Civil concerning wage labour continue to serve as subsidiary rules applicable to employment relationships even today. In the German context, due to the absence of a separate labour code, labour law is still based on the service contract (Dienstvertrag), which is grounded in the tradition of wage labour and from which the independent employment contract (Arbeitsvertrag) only emerged later. The enduring relevance of this topic lies in the fundamental question of how the law of the employment contract relates to labour law as such, and how the private-law nature of the legal relationship can be reconciled with its inherently public-law elements.

Panel 3A

Konstantin Veselinov **Tanev**

University of National and World Economy

Il diritto romano sulla distribuzione delle parcelle fondiarie e la gestione delle risorse naturali al centro e alla periferia

Lo sviluppo di nuovi concetti giuridici, come la proprietà privata, rappresenta un processo graduale e complesso. Storicamente, il quadro normativo che regolava la distribuzione delle terre pubbliche e il loro trasferimento ai privati ha modellato tale processo. Esso ha inizio con la legge agraria epigrafica del 111 a.C. e prosegue fino all'epoca di Gaio.

La pratica della limitazione fondiaria (centuriatio) richiede la definizione della forma, delle dimensioni, dei confini e delle caratteristiche delle parcelle di terreno. Per esempio, era difficile istituire la proprietà privata lungo gli alvei fluviali e in aree simili, a causa delle variazioni del corso d'acqua. La limitazione fondiaria si sviluppò come disciplina praticata dai geometri romani durante la tarda Repubblica e il periodo classico, pur affondando le sue radici nelle prime fasi della civiltà romana.

Al di là degli aspetti tecnici, tale processo ha inciso profondamente sulla struttura sociale, regolando i rapporti all'interno delle colonie, modellando le forme di produzione agricola e orientando l'uso delle risorse naturali in senso più ampio.

Panel 8F

Anna **Tarwacka**

Cardinal Stefan Wyszynski University in Warsaw

Persons alieni iuris as pirate captives – legal problems

Legal issues related to the capture of persons slieni iuris by pirates lie on the borderline between the issue of pirate prisoners and items seized by sea robbers. This problem will be approached from the perspective of legal and literary sources in order to determine as precisely as possible the legal consequences of the kidnapping by pirates of a person subject to patria potestas.

Panel 6A

Francesco Saverio **Tavaglione**

Université de Liège

Quelques réflexions à propos de la fonction réparatrice de la responsabilité aquilienne dans la législation impériale du IIIe siècle

Dans deux rescrits datant respectivement de 239 et 241 de notre ère, que nous lisons dans C. 3.35.2 et 3.35.3, l'empereur conseille aux requérants d'intenter l'actio legis Aquiliae « ut damnum sarciatur » et « damni sarciendi gratia ». Lors de cette présentation, nous nous concentrerons tout d'abord sur la signification de l'expression damnum sarcire, que l'on retrouve par ailleurs dans un fragment où Gaius cite la loi des XII Tables en matière d'incendium (Gai. 4 ad XII tab. D. 47.9.9). Nous nous demanderons notamment si les juristes impériaux qui rédigèrent ces rescrits entendaient affirmer que la responsabilité aquilienne remplissait désormais une fonction réparatrice. Ensuite, nous nous focaliserons sur le second rescrit, où l'empereur énonce que, lorsqu'une esclave est tuée, son propriétaire peut se prévaloir tant de la lex Aquilia que de la lex Cornelia de sicariis et veneficis. Plus précisément, nous comparerons cette constitution avec un extrait de Baldus de Ubaldis, où ce juriste affirme – onze siècles plus tard – qu'à chaque fois qu'un delictum concerne le patrimoine, une action civile et une action criminelle naissent du même acte illicite. Cette comparaison nous permettra de réfléchir à la fonction de la responsabilité aquilienne dans la législation impériale du IIIe siècle, afin d'y identifier d'éventuels points communs et divergences par rapport au cadre dessiné par la compilation de Justinien.

Panel 1E

Grzegorz Maria **Tracz**

Jagiellonian University Kraków

Ex pacto ius – A Survival from the Past

It is widely accepted that Roman contract law was founded on the principle of contractual nominalism, whereby legal action could only be taken on the basis of a named, specific contract. Affirming the prevalence of this principle effectively negates the idea that Roman law recognised the principle of freedom of contract. However, this entrenched view may not be entirely justified. During the Republic, the Romans may have held a different position to that commonly attributed to them. This is reflected in the pretor's words, which resemble modern statutory declarations of the freedom of contract: 'Pacta conventa servabo' (D. 2.14.7.7). Perhaps the concept of contractual nominalism only gradually became the dominant principle. Imperial rescripts provide intriguing evidence of provincial practices. As early as 212 CE, sources note that a rescripts were sent from Rome to the provinces repeating 'in iure nostro ex nudo pacto actio non oritur'. Presumably, it was necessary to inform new citizens that, once they had become citizens, no claim could arise from a nudum pactum.

Panel 2B

Fabiana **Tuccillo**

Università degli studi di Napoli Federico II

Edictum quod quisque iuris e realtà provinciali

A provision of the edictum quod quisque iuris contained in D. 2.2. 1 stated that "if anyone invested with magistracy, or other authority has established a new rule against any party, or he must himself be judged by the same, when his adversary demands it"; or "where anyone has obtained the application of a new law before an official invested with magistracy, or other → authority, and subsequently some adversary of his demands it, he shall have his case decided against him by the same law". Scholars debate whether this edictal clause was applicable solely in Rome or also in extra-Roman contexts, particularly in the provinces.

Panel 6C

Emese **Újvári**

University of Debrecen

Der Schutz von Bäumen und Wäldern im Römischen Reich im Lichte der Rechtsquellen

Die Bäume und Wälder spielten (in mehrfacher Hinsicht) eine sehr wichtige wirtschaftliche Rolle für die Römer. Nicht nur die Obstbäume oder Olivenbäume, die für die Landwirtschaft wichtig waren, waren von Bedeutung, sondern auch die Wälder im Allgemeinen, die wichtige Rohstoffe für Industrie, Bauwesen, Kriegsschiffe, Heizung usw. lieferten.

Es gab schon seit der Zeit des Zwölftafelgesetzes bis zum Ende der Kaiserzeit Normen zum Schutz von Bäumen und Wäldern, sie dienten aber im Prinzip nicht dem Schutz von Bäumen und Wäldern an sich, d.h. sie waren nicht für den „Natur- und Umweltschutz" oder für die Erhaltung des Walderbes gedacht. Diese Normen schützten hauptsächlich die Interessen von Privateigentümern gegen illegale Fällungen. Gelegentlich, vor allem im östlichen Teil des Römischen Reiches, gab es aber auch Bestimmungen zum Schutz bestimmter Baumarten, die in dem Gebiet als besonders wertvoll galten. Diese Normen dienten in erster Linie wahrscheinlich dem Schutz des kaiserlichen Eigentums oder, vor allem in Ägypten, als Fortsetzung einer früheren Tradition angesichts der Knappheit an Bäumen, dem Schutz dieser Bäume selbst.

Panel 4B

Jakub **Urbanik**

University of Warsaw

The double sided conubium: salvo iure gentis clause and the relationship between Roman law and the provincial orders

Since the emergence of juristic papyrology one of its most studied and vexed problems has been the relationship between the local legal orders and the ius urbis Romae in as much their application, hierarchy, and the possible conflicts are concerned. The self-imposed solution of deciding this problem according to the principle of personality of law could not find universal application in a society in which cross-ethnical contacts were the daily bread. It has been long established that the legal acts arising from trade, management of estates, &c., would be governed by rules common to the whole population. Instead, the law of origin found its function only in the cases in which one's personal – and civic – status was at stake: i.e., broadly understood family law (viz. marriage, legitimacy of offspring – thus also acquisition of civic status, succession, and kinship). This thumb rule solution could be however nuanced further. And so in my paper I intend to look at problematic cases of the double civic status trying to see which civic order would be applicable. My test case will be marriagem, the most civic concept as seen from the Roman and Greek politic perspective. I will attempt to show however, how, contrary to the expectations, the Romans were ready to accommodate the local legal solutions in their idea. With the epigraphic and papyrological evidence inclusivity and openness of the Roman approach will be demonstrated.

Panel 6B

Wout **Vandermeulen**

KU Leuven

From Emperor to Emperor: the issue of „monopolium" from Zeno to Charles V

In 483 AD, the Emperor Zeno promulgated an absolute and severe prohibition of "monopolia" in a decision addressed to the Prefect of Constantinople. While it is unclear which set(s) of facts encouraged him to take this decision or what its effects on Roman economic life were, the prohibition made its way into the Code of Justinian (the rule now known as C. 4.59.2.). During the Middle Ages it was therefore known, but given the economic circumstances of the time, there was little interest beyond some linguistic and general comments. In the 16th century, however, the emergence of new situations of economic dominance in the Holy Roman Empire led to renewed discussions on the issue. In response, Emperor Charles V promulgated a series of prohibitions inspired by Zeno's legislation in order to (seemingly?) combat these new "monopolia". My presentation will examine the fascinating link between Zeno and Charles, leaning on the medieval and early modern "ius commune" to explain how this rule from Late Antiquity maintained its relevance until well after the collapse of the Roman Empire. In doing so, it seeks to highlight the perceived contemporary continuity between the Roman Empire and the Early Modern Period.

Panel 3A

Francesco **Verrico**

Julius-Maximilians-Universität Würzburg

La legislazione di Giustiniano in tema di enfiteusi ecclesiastica tra centro e periferia

La legislazione di Giustiniano in tema di enfiteusi ecclesiastica si caratterizza per un andamento oscillante. Intervenuto nel 530 con una costituzione che regolava in modo restrittivo durata, destinatari, determinazione del canone e motivi di devoluzione nell'ambito della chiesa di Costantinopoli (C. 1.2.24), Giustiniano ritenne necessario tornare sulla questione con la Novella 7 del 535, estendendo le restrizioni a tutto l'impero. Entro due anni, tuttavia, l'imperatore autorizzò nuovamente, con la Novella 55, il ricorso all'enfiteusi perpetua tra istituzioni ecclesiastiche, a determinate condizioni e al di fuori della chiesa di Costantinopoli, per rispondere a esigenze fiscali o debiti verso privati. Infine, nel 544, con la Novella 120, promulgò una nuova disciplina generale, distinguendo nettamente tra la chiesa di Costantinopoli e il resto dell'impero. La presentazione ricostruisce nel dettaglio questi mutamenti normativi, riflettendo sulle circostanze politiche e socio-economiche che spinsero Giustiniano a differenziare la disciplina dell'enfiteusi ecclesiastica tra centro e periferia.

Justinian's legislation on ecclesiastical emphyteusis is characterized by a shifting approach. His first intervention in 530 (C. I. 1.2.24) imposed strict limitations on the duration, beneficiaries, rent determination, and grounds for reversion within the Church of Constantinople. In 535, he revisited the issue with Novel 7, extending several restrictions to the entire empire. However, within two years, Justinian authorized the use of perpetual emphyteusis – under specific conditions and excluding the patriarchal Church of Constantinople – through Novel 55, in response to fiscal needs or private debts. Finally, in 544, Novel 120 introduced a new general framework that explicitly distinguished between the Church of Constantinople and the rest of the empire.

This presentation reconstructs these legislative shifts in detail and explores the political and socio-economic circumstances that led Justinian to differentiate the regulation of ecclesiastical emphyteusis between the imperial center and the provinces.

Panel 3C

Tammo **Wallinga**

Erasmus University Rotterdam / University of Antwerp

Crime and Punishment in the Roman Province

This paper treats the text 1,11 of the Collatio legum Mosaicarum et Romanarum. It is a text of eminent didactic value, that serves to draw the students' attention to various aspects of Roman law, both penal (private and public) and procedural, as well as to the practice of the rescriptum.

Panel 7D

Guodong **Xu**

Xiamen University

The Changing Roman Customary Law: From the Roman City-State to the Roman Empire

The evolution of Roman customary law is divided into two stages: the city-state stage and the imperial stage. In the former stage, Roman customary law was mainly manifested as Mos, which emerged earlier than written law. Many contents of the Twelve Tables, as the fruit of the earliest written law movement, recorded this customary law. Mos primarily regulated the kinship-inheritance relations among Romans, but also involved public law relations. Such customs were "solidified" and applied through the writings of jurists, so they were inseparable from the jurists' interpretations and were not listed as independent sources of law.

In the imperial stage, a contradiction arose between the diversity of local laws and the unity of Roman law as the uniform law. If Rome during the city-state period was merely a single jurisdiction, then the imperial period saw the coexistence of multiple jurisdictions. The Roman government, in the face of this diversity, abandoned absolute uniformity and conferred legal validity on local laws in the name of customary law. Thus, such customary law sometimes functioned as an independent norm, and sometimes merely as an indicator pointing to the customary law-like applicable law of specific regions. The Roman experience tells us that the larger a country's territory, the greater the space for customary law to exist. In a sense, therefore, customary law is closely related to geopolitics. Based on the geopolitical conditions of the Roman Empire, by the time of Justinian, custom was recognized as one of the six sources of Roman law. However, Roman rulers also established restrictive conditions for the application of customary law. First, it must not conflict with law and reason, thus placing customary law in a supplementary position. Second, it could only be applied after verification to avoid abuse of it. Third, it needed to be reviewed to ensure that local laws did not conflict with national laws.

Regarding the basis of validity for any customary law, the Romans adopted an explanation of social contract theory. A definition of customary law in the Digest of Ulpian embodies this interpretation: custom (mos) is the implied consent of the people, confirmed by long-standing practice (consuetudo). This passage attempts to reconcile mos and consuetudo, regarding the latter as a means to confirm the former. According to this, the validity of customary law originates from the people, just as the validity of law (Lex) does. The difference between them is that one is the implied consent of the people, and the other is express consent. The opposite of the social contract theory explanation is the theological explanation, and the Romans did not attribute the origin of customary law to the divine.

The people's consent must persist for a long time to form customary law, so most historical materials of Roman law add the restrictive term "long-standing" before "custom". As for how long a practice must persist to become customary law, a vague standard was adopted. Conversely, the implied consent of the people could also abrogate written laws. If a written legal rule was long ignored, it would cease to be a norm of conduct. This positive and negative aspect embodies the Roman concept that the life of law lies in its application.

Panel 5C

Tomoyo Yoshimura

Hiroshima International University

Matrimonial property law and parapherna in Roman legal history

Dowry was a crucial element in property relations between spouses throughout Roman legal history. Besides the dowry, the wife brought other things for herself into the husband's house. Unlike the dowry, these things remained the wife's property throughout the marriage. They are referred to as parapherna, res extra dotem, and peculium in sources, but it should be still considered whether these three terms can be treated as having the same meaning. The term "parapherna" appears frequently in Greek marriage contracts and many Egyptian papyri, which usually had clear provisions regarding the rights that the wife or husband had towards it and the legal procedures following the end of the marriage, etc. In the late Empire, emperors, taking up paraferna, gradually recognized its legal practices as rules (C.5,14). These constitutions improved the position of wives and helped secure measures of financial protection for wives. Paraferna is certainly one of the clearest examples of the penetration of an 'eastern' legal framework into Roman law. It brought about a transformation in matrimonial property law. This dynamic reform was a long-term process that had been going on since the late Republic, and parallelly a similar process was also taking place about dowries and marriage gifts (donatio propter nuptias). Although parapherna was 'peripheral' rather than 'central' to Roman matrimonial property law, I believe it played a crucial role in the reform, since it was originally the wife's personal property.

Panel 1C

Tunay Yüce

Hacettepe University

Administrative Structural and Legal Transformation of the Province of Phrygia in the Roman Empire: The Application of Interdictum de Aqua Cottidiana et Aestiva in Phrygia

This study investigates the administrative structural and legal transformation of the Roman Province of Phrygia during its integration into the Roman Empire, with a particular focus on the localized application of the Interdictum de Aqua Cottidiana et Aestiva. As a crucial legal instrument, the interdictum played a significant role in regulating water rights and access, which were vital for agricultural and urban development in Phrygia. Situated in the interior of Asia Minor, Phrygia provides a compelling case study for how Roman legal norms were adapted to provincial conditions in response to environmental demands and agricultural pressures during the first to third centuries CE.

Through a detailed analysis of historical texts and legal documents, this research highlights the interplay between Roman law and local customs, illustrating how the interdictum served not only as a tool for legal regulation but also as a means of asserting Roman authority. The findings indicate that the implementation of the interdictum in Phrygia was instrumental in shaping the province's administrative practices and legal landscape, reflecting the complexities of Roman provincial administration.

By framing Phrygia as a zone of legal pluralism and adaptive governance, this study contributes to current debates on Roman environmental regulations and imperial administration. Furthermore, it highlights how legal texts functioned not only as prescriptive tools but also flexible framework for managing shared resources within the empire's diverse landscapes. The study ultimately emphasizes the mutual shaping of law and environment in the Roman provinces and its implications for understanding imperial resilience and control.

Panel 8C

Isabella Zambotto

Università degli Studi di Padova

Il fedecommesso come istituto di confine. Riflessioni a partire da D. 36.1.80(78).1

Partendo dal responsum di Quinto Cervidio Scevola conservato in D. 36.1.80(78).1, circa un caso di petitio fideicommissi, l'intervento si propone di ricostruire e vagliare criticamente le ragioni alla base della mancata concessione del rimedio in parola. L'analisi si concentrerà sulla controversa figura oggetto del fedecommesso, considerata da alcuni studiosi come un'ipotesi di παρακαταθήκη. Attraverso un'indagine trasversale di quanto presupposto e implicato dal caso si intende enfatizzare la natura liminale di tale disposizione testamentaria nel diritto successorio romano. Disposizione la cui rilevanza è, oltre i limiti del contesto storico di emergenza, ancora percepibile in alcune disposizioni del codice civile italiano vigente.

Panel 4E

Vid Žepič

University of Ljubljana

Nisi fideiussio idonea super solutione debiti praebeatur: The Influence of Provincial Practice on the Prerequisites for Moratoria in Late Antiquity

This paper examines the influence of provincial legal practice on Late Roman imperial legislation concerning debt moratoria – extensions for debt repayment granted through imperial rescripts. While classical jurists were generally hostile to state interference in private obligations, recurring economic crises compelled both provincial administrators and emperors to intervene in the law of obligations. A papyrus from Oxyrhynchus (PSI 7.767, 331 CE) documents a five-year moratorium granted by the prefect of Egypt to a local butcher, on the condition that he provide a valid surety (ἔγγυητής). In 382, emperors Gratian, Valentinian II, and Theodosius I issued a constitution (C.Th. 1.2.8) revoking all previously granted moratoria and accusing debtors of abusing imperial generosity to defraud their creditors. About 150 years later, this very edict was interpolated in Codex Justinianus 1.19.4, but with a crucial change: moratoria were now declared valid only if the debtor provided a sufficient surety. This paper argues that the requirement of a valid surety (fideiussio idonea) did not originate in Justinianic legislation, but emerged earlier as a provincial administrative response to creditor–debtor tensions. Crucially, this condition arose precisely because provincial officials lacked the authority to grant unconditional moratorium. Requiring a surety allowed them to reconcile the need for temporary relief with the legal imperative to protect creditors and avoid exceeding their mandate. What began as a local workaround – ensuring that the state's intervention did not become an outright cancellation of obligations – was eventually codified at the imperial level as a general rule.

Panel 2B

Alberto Zini

Università degli Studi di Padova

Dalla 'periferia' al 'centro'. La lex Irnitana e il praeiudicium an liber sit

La scoperta della lex di Irni ha consentito di gettare nuova luce su alcuni aspetti in relativa ombra del diritto romano del I secolo d.C.: ciò ha dato luogo a un movimento per così dire 'inverso', non dal 'centro' alla 'periferia', ma da quest'ultima al 'centro'. Grazie a questo movimento informazioni provenienti dalla realtà provinciale hanno contribuito a ricostruire, o a rivedere, la fisionomia di fattispecie e di istituti peculiari del diritto di Roma, e dunque

del ‘centro’ dell’Impero, su cui la dottrina romanistica aveva in passato discusso, talvolta aspramente. In tale contesto, una particolare menzione va assegnata alle formulae praeiudiciales, il cui statuto è stato oggetto di dibattito a partire dalla laconica trattazione gaiana (4.44) e in ragione della scarsità di informazioni al riguardo rintracciabili nelle altre fonti giuridiche. Rispetto a questo tema, la citata lex ha contribuito anzitutto a rischiarare la questione riguardante l’esistenza del praeiudicium an liber sit, sulla quale ampi erano i margini di incertezza; inoltre, essa ha consentito di affrontare il problema concernente la possibile natura necessariamente incidentale delle formule in esame. Si riteneva da parte di taluno, infatti, che i praeiudicia fossero destinati, nell’epoca classica, a trovare esperimento solo se collocati in una vicenda giudiziaria più ampia. La lex di Irni, invece, sembra corroborare l’immagine di uno strumento dal possibile impiego anche autonomo e dunque indipendente rispetto a un altro e più vasto procedimento. In ciò la scoperta epigrafica ha dato un nuovo volto a un mezzo processuale, il praeiudicium an liber sit, della cui sussistenza non esisteva prima nemmeno la prova sicura.

Panel 8E

Oliver **Zizzari**

University of Edinburgh

Dokimasia in Roman Athens: Discontinuity and Survival of the Scrutiny under Roman Provincial Administration

Dokimasia – the scrutiny for eligibility and honourability that every citizen in Classical Athens had to undergo upon the conferral of a new legal status – was a central feature of the Athenian legal system. Enquiries into honourable civic conduct (timē) underpinned a citizen’s claim to public recognition, resulting in the attribution of legal rights, which were themselves conceptualised as honours (timai).

Scholarship on dokimasia does not extend beyond the Hellenistic period, as the procedure is closely tied to democratic institutions. This paper investigates the later fate of the dokimasia, exploring whether and how the local practice of the scrutiny was adapted to the new legal framework of Roman Athens.

As an institution, dokimasia is consistent with a pre-Roman context in which rights were conceptualised as honours to be bestowed by the community in recognition of civic desert (axia). In Athens, inscriptions granting timai such as citizenship through dokimasia are only attested until the 140s BC; under Roman provincial administration, naturalisation shifted toward a more individualised process, likely initiated by applicants themselves. However, the conceptual framework of dokimasia persisted and provided categories adaptable to the new legal reality.

Evidence for this survival appears both in the use of dokimasia semantics in Roman-era Greek sources (Polybius, for instance, translates the Roman census equitum as dokimasia hippeōn, suggesting a significant semantic alignment between dokimasia and census), and in the practice of dokimasia for members of Athenian private associations (cf. IG II^2 1369 from 2nd century AD), demonstrating the endurance of the institution within conservative religious circles.

An example of adaptation of dokimasia to the new legal framework can be observed in the letter from Emperor Marcus Aurelius to the Athenians (SEG 29.127, c. 174/5 CE), concerning the admission to local political and judicial offices. The letter refers twice to procedures for scrutinising magistrates’ eligibility. These scrutinies, however, are confined to legal qualifications and do not seem to involve the moral evaluation typical of Classical Athenian dokimasia, making them more closely aligned with Roman eligibility assessments for office.

Together, these examples reveal both discontinuity and survival: while the original dokimasia, rooted in timē and axia as foundations of civic rights, undergoes significant erosion, its lexical residue persists. What emerges is a form of institutional conservatism in legal language and an example of adaptability of Classical Athenian legal categories to the evolving legal and political environment of the Roman province.

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